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THE ASIATIC PROBLEM AND ITS RELATION TO THE UNITED STATES.

THE unmasking, but a comparatively short time ago, of extraordinary Russian political activity in Manchuria, and the general belief in well-informed quarters that Russia intends to play fast and loose with the other great powers in the settlement of affairs in China, are sufficient to justify grave and disquieting doubts in the mind of the political student who would take an optimistic view of future economic and political conditions in Asia. Many astute diplomatists and far-seeing investigators seem to discern in the Anglo-Japanese pact, resulting in the consolidation of powerful interests, an effective guarantee of peace —even though an enforced one —in Eastern Asia. Others, equally well informed, entertain the discouraging view that this alliance, far from insuring peace, has injected into the situation new and portentous elements, adding fresh fuel to the smouldering fire, and hastening the approach of the long-predicted and long-expected irruption which is to involve the world in one vast and overwhelming convulsion.

Beneath all the troubles in the Empire of China, which now for some years has occupied an important place on the international political stage, there is an undercurrent of perpetually seething unrest, toward which, for one reason or another, the civilized world has shown a disposition to maintain a deep-studied attitude of whimsical disinterestedness. To disclose the subtler and more hidden elements of the situation does not render it easy to foresee, or to suggest, any enduring solution; but it may help

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public opinion, in the light of events, to form itself correctly, and above all to appreciate the obstructive forces which have checkmated diplomacy, laid at least three world-powers by the heels, and in fact had a more potent influence on the ever-changing checkerboard of Asiatic politics than has generally been allowed. The Chinese imbroglio, and the so-called Manchurian crisis, it should be first understood, are but individual incidents in the contest for supremacy in Asia, and not, as many writers have been apt to suggest, the substance entire of the Asiatic Problem considered as a geographical and political whole. If for the altruistic though misleading professions by which the civilized nations of the West have sought to explain their various attitudes in China, such as the spreading of "civilizing and Christianizing influences," "the safeguarding of subjects," and the thousand and one stock virtuisms in the diplomatic catalogue, we substitute the never-ending struggle for political and commercial supremacy in Asia, we have the whole question in a nutshell. There are questions in the realm of higher politics, in addition, such as *points d'appui*, strategical frontiers, ice-free and ice-bound ports, spheres of concession and spheres of influence; and it is well not to forget these facts when referring to the hypocritical protestations of the powers that in what they do, they have only one great interest at stake, — the betterment of China. How misleading and fatuous are these shallow claims is patent to any one familiar with Asiatic political conditions. It is too probable, — more's the pity, — that China will be the next unfortunate victim of the abused name of civilization, the modern diplomatic euphemism for the generally accepted policy of "every nation for itself, seize what you can get, and the devil take the hindmost." And in this struggle for supremacy, — although the entire civilized world has had a more or less active finger in the pie, — the question of mastery, when sifted down to matter-of-fact and concrete conditions, is, politically at least, of vital concern to but two nations, Great Britain and Russia.

This view does not involve the undue subordination of the interests of those other nations, who, with many a fine fret and fuss, seek to induce themselves, and in addition, the world at large, to believe that in the momentous questions at stake they

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must play an important part. I not only speak my own views, — after wide travel and residence in China and throughout Asia, and the study of political conditions at close range, — but, I feel, reflect the views of those who have most closely followed Asiatic politics when I say that there has been, and is at the present time, a general disposition to look with too serious an eye on the *rôle* which Japan may assume, and to count too much on "the preponderating influence" of her recently-acquired "mailed fist" if injected into the struggle. In fact, there has long existed on the part of credulous individuals and the public prints a disposition to bolster up their clamorous faith in this newly arisen David of the East by erroneous and misleading comparisons, based on data of too uncertain a nature. I would be the last to seek to detract from the credit due to Japan for her marvellous assimilation and adaptation of Western ideals, but the rapidity of her transformation has given rise to inferences and arguments which are not justified by demonstrated facts. No one can gainsay the personal valor and martial willingness of the Japanese, but, judged by Western standards, Japan is to all intents and purposes an untried power, an unknown quantity. Her war with China, and the excellent showing made by her soldiery in the recent troubles in that country, — while wholly commendable, — offer no safe basis of comparison with Western nations. Leaving aside the question of what she might or might not do to a Western power of her own size and resources, the possibility of Japan infusing herself into the situation as a serious menace to Russia's Asiatic program is not worthy of serious consideration. Backed up, and morally and physically strengthened, by her alliance with England, Japan would doubtless be able to maintain the integrity of her own soil against any Russian onslaught, — and might even gain some slight success on the mainland in Korea or other Chinese territory adjacent to her own waters, — but it would be as idle as fallacious to assume that she would prove a serious barrier to Slavonic schemes for dominance in Asia. In spite, therefore, of the fact that she is vitally interested in the future of this, the oldest of the continents, she can as yet play in the great contest for supremacy only a subordinate part to England and Russia.

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Turning toward the part to be played by the United States in the future of Asia, it is not safe to assume that she will take a more active interest than at present, — that is, to safeguard properly the security of her citizens, and to seek by bloodless commercial warfare to enjoy her proportionate share of trade and to support all legitimate enterprises wherever they can be acquired and maintained. But the desire to acquire territory in China or elsewhere on the mainland of Asia may conservatively be placed outside the pale of probability. And as the struggle for territory is to be the keynote of the Asiatic Problem in the future, it cannot be presupposed that the position of the United States in Eastern world-politics will ever exceed the *rôle* of a more or less passive spectator of the ever-changing diorama.

Although Germany has gained a foothold in China, recent developments all go to show that, even if not voluntarily so disposed, she will be compelled by the force of circumstances to curb any desire for further territorial aggression in that quarter. Germany's interest in what minor concessions she has already taken over has been characterized by lukewarmness, while the repeated opposition to the colonial budget at home leads one to believe that the sentiment of the great mass of the German people is adverse to an active colonial policy in Asia where there must be a risking of the candle in a game not promising commensurate advantages to Teutonic interests. It seems probable, therefore, that German interests in China will be similar to those of the United States, inasmuch as the inauguration and pursuit of an active commercial policy will be of more importance than any considerations looking toward territorial expansion.

On the other hand, France is, and doubtless will continue to be, somewhat of an uncertain element. It is not necessary that she should be considered as a superior political factor in the development of Asia, as it is very probable that her territorial growth in the East will not exceed its present limitations. Should her intense Anglophobist tendencies impel her more openly and demonstratively into the sphere of Russian influence, she would inject into the struggle an element antagonistic to England which the latter nation might find would not be offset by the offensive and defensive alliance with Japan. But it must be confessed

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that the French disposition to "blow warm, blow cold," is, and has been, such an important factor in her national policy that French support would be but a slender reed for Russia to lean upon. In addition, while there is no way of foreseeing what would be the attitude of the great mass of the French people toward lending a hand to Russian schemes of aggrandizement, yet the *rôle* of chestnut-picker for Russia in the Asiatic fire offers numerous possibilities not wholly reconcilable to the Gallic temperament.

Of Italy, and any other minor powers interested in Asia, it may be said that their influence is, and will continue to be, *nil*. Even did "vaulting ambition o'erleap itself," Italy's experiences in her African colonizing schemes have served to dampen her enthusiasm for similar enterprises elsewhere; while as for the other small powers, they have not enough at stake, nor have they the physical or financial resources requisite for an international struggle of such importance.

By this process of elimination the question is reduced to its simplest elements, namely, the considerations which govern the respective English and Russian policies, and which will have more or less a paramount and determinative effect on the future, not only of China, but of the whole of Asia. Were it merely a question of the extension of Russian influence over Manchuria, or the sating of the Slavonic desire for territorial expansion by the acquisition of this territory and a few contiguous sea-ports, the difficulty would ere this have reached a satisfactory and definite ending. Were English statesmen and diplomatists convinced that Russian aggression would cease with the actual acquisition of Manchuria, and even a liberal share of China, they would be tumbling heels over head to effect a compromise so eminently advantageous to British interests. But, unfortunately, there exists no probability, nor, in fact, possibility of striking such a happy medium. There are numerous other straws showing how the wind blows, — the whole course of Russian aggression in Asia has left indubitable footprints indicating the direction and scope of its future purpose. Across the entire map of Asia the story is the same. Peter the Great was the father of Russian expansion, and since the expedition he sent out to Khiva and the Oxus there

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has never been a single retrograde step in Russian expansive policy.

In Afghanistan, in Central Asia, and in Persia, Russian dominance is day by day more boldly unmasking. It is an open secret that in Persia the power of the Czar is greater than that of the Shah. The entire country is surveyed for a network of Russian railways, some of which are now being built, so that Teheran and St. Petersburg will soon be connected by them. So secretly and gradually has this all been done, that even now British statesmen have not ceased rubbing their eyes and questioning the evidence of their own senses. Another dream that has been as ruthlessly shattered is the historic theory of a "buffer state" between India and Russia's Asiatic possessions. The futility of this project, and the real disaffection of Russia toward such a condition, can hardly be more fully exemplified than in her unconcealed attempts to embrace Persia in the ramifications of her campaign of expansion. And what is true of China, what is true of Persia, is but an indication of what Russia purposes to do throughout Asia. Hitherto she has relied to a great extent upon the more subtle, though none the less successful, methods of diplomacy; only of late, as a tentative "feeler" of the latent strength she has gathered, have been heard the first faint rumblings of the new and more truculent policy which Russian statesmen now think the moment propitious to adopt, to insure the establishment of Slavonic supremacy.

There can be no doubt that Russia is already holding a whip-hand over China, and in general the whole of Central Asia as far south as the Indian border, where she rules in substance if not in name, quietly pushing forward to consummation her gigantic schemes of political and commercial pre-eminence. Already her traders, her spies, her military officials and diplomatists, have threaded through the wilds of Turkestan, and even into Thibet and other hitherto inaccessible regions of Central Asia, — sowing sedition in one spot, conciliating the native tribes in another, blinding the Chinese government and the world at large as to her real intent, — each and every step, however, a part of a carefully thought out and prearranged plan, formulated years ago in Russian chancelleries, to undermine English influence, which is

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the only barrier capable of obstructing or likely seriously to thwart the consummation of Russian policy.

In view of this traditional policy of expansion, it is not difficult to account for the exceptional interest which China possesses for Russia, nor, on the other hand, for the similar interest of England. Through a large cycle of the life of the ancient world China has filled a conspicuous place in the political hierarchy. Its political value has long been recognized, and it has, indeed, formed a constant factor in English and Russian politics for the last quarter of a century, if not longer. There are Western powers to which the past, present, or future of China, or Asia in general, is of little or no concern; but to England and Russia, dividing as they do so large a proportion of Asia between them, China must ever remain an object of especial solicitude. Both of these great nations have at least one interest in common, and that is the making of Asia a valuable and productive continent. But, unfortunately, each believes that the development of the other is detrimental to its own welfare. It must be admitted, however, that the English claim in this regard is more just than would be that of Russia if the conditions were reversed. To understand this it is only necessary to consider the widely diverging lines upon which the policy of each proceeds. With England the acquisition of territory, merely considered as territory, weighs but little, except as it may be required in order to safeguard her diversified commercial and political interests and the integrity of her Indian possessions. England has in this direction no designs of conquest; and the policy which she pursued toward the late Ameer of Afghanistan, in placing him upon the throne, and supporting him there when the whole country was at her mercy, has demonstrated to the Asiatic world, or at least should have done so, that the interests of England do not so much demand the acquisition of new territory as the consolidation of existing institutions, the maintenance in greater strength and security of the present established order of things, and the permanency of those rulers who show themselves capable of administering their ancestral possessions.

There is nothing in China to excite the cupidity of any English government, for as an ally, even though an inactive one, or

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as a mere commercially related nation, China is more valuable to England than she would be as a territorial dependency. But the recent tendency, perhaps enforced, of China to throw herself into Russia's arms, and the paramountcy of Russian influences at Pekin, have added materially to England's difficulties in her efforts to counteract each successive advantage gained by the tact and subtlety of Russian statecraft. If Great Britain is to retain her Indian empire, — leaving aside any possible conflict of interests in China or elsewhere, — a collision between her and Russia seems not only possible, but assured. There are many to-day in the British government who do not think that the possession of her Indian empire adds anything to England's power. She has never derived any real benefit from it, and the Indian expenditures exceed the revenues. With this fact in view, it is not only misleading, but downright fallacious, to assume that in taking an active interest in the growing crisis in the East, England is doing so with the expectation of territorial aggrandizement. English influence, furthermore, wherever it is exerted, is in favor of free trade, and it asks for itself neither protection nor any advantages which are not equally and freely offered to all the world. Although it is patent that the commercial policy of other nations is more or less protectionist, actuated by a consuming desire to obtain exclusive use of all the new markets they acquire, it is not possible for them to say that the British commercial policy is hostile or unfriendly to them. This being the case, there can be no doubt that England would prefer that China should remain politically independent than be saddled upon her as is India. If it be assumed that she is able to hold her own with any commercial adversary who may rise up against her, and that, if the integrity of China be maintained, she may reasonably hope to succeed in trade competition with other countries, the question of ownership is insignificant as compared with that of commercial policies.

This is England's present-day disposition in the matter; but, on the other hand, it is not possible to lose sight of the fact that Russia's disposition must be considered an equally important factor in the situation. And it is here that the shoe pinches most. It may safely be assumed that Russia, in open or covert aggression upon China, is but working out the shrewd scheme

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which she has sought to fructify for over a century. It may be that the *vis inertiae* of the East, the traditional and hereditary antipathy and disinclination to change, which seem to belong to all Asiatic races, and the mutually watchful jealousy of the two great nations with vital interests at stake, may prevent, at any rate for some time to come, the accomplishment of all that the Russian promoters of this great undertaking purpose. It is little consolation to England, however, to learn that the course of Slavonic aggression is but temporarily checked rather than permanently arrested. Throughout the world the opinion is held, — and as freely expressed, — that Russia's influence in Asia is on the increase, and that Russian troops can attack British India with an excellent chance of success as soon as the Czar gives the order.

In view of recent events in China, there is much significance in the vigorous policy adopted by Russia in the various important international questions arising out of and subsequent to the Boxer disturbances. Fully recognizing the fact that the Boer war has greatly diminished the likelihood of opposition from England, Russia has taken advantage of the "happy circumstances" to gain some "happy results." We are often told that Russia is the peace-keeper of the world, and the Hague Conference is witness to her enthusiasm in the cause of international good-will. Yet her love of peace is not inconsistent with a business-like alacrity to reap advantage from other people's wars. In 1901, when the South-African situation was at the point of white-heat, I asked a well-known Russian diplomatist if there was any danger that his country would attempt to interfere with England's proceedings in South Africa. "Interfere?" he replied. "Why in the world should we do anything to alter a state of affairs which is so eminently to our advantage? The longer Great Britain is kept occupied in South Africa, the better for us. It would be madness to interfere."

The most disquieting feature of the situation is the constantly increasing advantage of Russia in Asia; and it is only necessary to contrast the principles governing Russia's actions with those governing the course of England to realize the dangerous future effects which this Slavonic growth is likely to produce. With

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Russia, while the increase of the area of her Asiatic possessions is considered of prime importance, trade conditions, and the commercial exploitation of the new territories which she takes over, are looked upon as essential concomitants. If the pursuit of her territorial policy was marked by commercial liberality, there would be in it not a little to commend. Unfortunately, however, it proceeds on lines widely diverging from those followed by England; for it has been the custom of Russia in the past, — and doubtless will continue to be so in the future, — to rule out of her possessions foreign competition by imposing arbitrary and practically prohibitive nationalistic restrictions.

When we consider the inevitable result of this stringent attitude toward the trade and commercial intercourse of alien nations, we are able to understand how Russian dominance in Asia would have a world-wide effect. The acquisition of valuable territory in China, such as the rich province of Manchuria, and the application to it of Russia's restrictive methods, would not only be a serious blow to English commercial interests in that country, but would affect those of other nations correspondingly. If England gained either a power of control over, or actual possession of, the territory, she would accord to the people of the United States, as well as to those of other nations, the same rights of entrance and trade as were allowed the people of England themselves. To-day this liberal and generous policy enables us to sell goods in India under as favorable conditions as the English people enjoy.

On the other hand, the fruition of the Russian program in China, and her possession or control of any considerable part of that country, would mean that the rights and advantages which the civilized nations of the world have spent tireless years in wrenching from Chinese exclusivism would go for naught, and that the door of trade, which the nations of the West have succeeded in pushing open, would be shut against all but distinctive Russian interests.

It is difficult at the present time to predict what the future of China will bring forth, — with its reflex action upon the whole of Asia, — but it cannot be denied that political rivalries have greater weight here than in almost any other country in the world. China

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lies between the powerful Asiatic possessions of England and Russia, and in the light of recent, or indeed present, events she cannot help sharing the anxiety of the earthenware jar that was compelled to float down the river with its companions of brass. It is probable that should no further assaults be made upon her integrity, China in the future, as she has done in the past, would pursue an independent policy, looking first to one side and then to the other, to gain the favor or deprecate the wrath of her powerful neighbors. Although the menace of Russian aggression never grows less, there is reason to believe, — in spite of the fecund growth of alarmist rumors, — that at the present time the full force of Russian influence will not be thrown into the international scale in opposition to collective civilization, while the peaceful and friendly disposition of the English government is notorious.

Apart from political considerations, and assuming that China will be allowed to enter upon a less conservative reconstructive era, there is every hope for the future, could this Russian menace be removed. But, in spite of the present complaisant tendency of her statesmen to acquiesce cheerfully in the wishes of the other interested powers, it is only necessary to follow the course of Russia's policy in Asia for the last century to see how little faith may be placed in her most solemn diplomatic asseverations. Her unscrupulous disposition to break her plighted word when it serves her purpose has ever been a prominent feature of Russian political policy. And it is this insatiable lust of Russia for expansion, — however the ethics of international fair-dealing may be distorted to subserve her purpose, — not only as applied to China, but to the whole of Asia in general, which must ever provide food for the alarmists who view with apprehension the rapid spread of Slavonic power in the East.

One need but look at the map to understand plainly the fears which haunt the minds of British statesmen when there is a tremor of more than ordinary character in the smouldering volcano which may burst forth with fearful violence at any moment. The success of Russia in China would so increase her grasp on the political situation in the East as to double, ay, and quadruple the mighty power she already holds at her command in the Pacific; indeed, to the most casual observer, such success means

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complete commercial and military dominance in Asia. Possession of large tracts of territory, or strategic points, would give Russia a menacing preponderance in the Asiatic world; but the establishment of Russian supremacy in China and Central Asia would most seriously jeopardize not alone the further growth, but the very existence of British interests in the East. Nor is this an exaggerated idea of the subject. The onward march of Russian aggression has constantly proceeded through four centuries, marked by no serious setback. For years she has had to bear the collective affronts and political hostility of every European nation, in spite of France's lately manifested friendliness. But slowly and surely her diplomatists have worked out their plans of intrigue and coercion until to-day she looms as a menace to the whole of Asia. With the possession of important interior posts and sea-ports in China, Russia would be able to nullify any apparent advantage which England might enjoy from her superior naval armament, — even in conjunction with that of Japan, — while it would be a comparatively easy matter to forward troops across Siberia, now that the completion of the Trans-Siberian railways permits rapid mobilization and transit of large forces, and, with a base of supplies and strategic points in Central Asia and China, to let loose the semi-barbarous and Anglophobist tribes of Turkestan, Afghanistan, and Thibet upon the luxuriant plains of India and Persia and China.

These are the conditions as they exist. Can England stay the seemingly inevitable end? and, if so, for how long? How long, the future alone can tell; but in the light of the detrimental effect that Slavonic dominance in Asia would have upon the interests of all other nations concerned in the commercial development of that continent, it is not possible to look with indifference upon any sequence of events tending to undermine English influence. Lord Salisbury, speaking not long ago on Great Britain's policy in the Far East, referred to Russian expansive growth as the "striking at the heart of England" of "a blow that might bring England to sudden downfall." Among continental politicians of the higher order, the ideal of a ruined England is not an England ruined all at once; such a world-calamity would be fraught with consequences too disturbing to the international equipoise. A

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suddenly ruined England would be as suddenly followed by disturbances of every sort everywhere too tremendous for contemplation. Downfall for England by successive stages is the desire of England's competitors wherever that desire is directed by patient and intelligent calculation. And if one is to judge by results, it is this "gradually encroaching" policy that Russia is pursuing in Asia. That British statesmen recognize this alarming fact is manifested in countless ways. In the strained relations which have existed between Russia and Japan for several years, the influence of a third power can be traced, and that power is England. The open declaration of the Anglo-Japanese pact has been nothing more than the formal announcement to the world of a tacit understanding between these two nations which has existed for some time.

It may seem a far cry from the political struggle for supremacy in Asia between Russia and England to our own interests; but these interests are much less remote than might appear from a superficial consideration of the question. Naturally, in the present attitude that she has adopted in Asia, Great Britain expects and looks for the moral support, at least, of the United States. In the treatment of the important international questions which have been pending in China during the last few years, the government and people of the United States are to be congratulated upon having rendered a great service, not so much to any particular nation as to the world at large. At the conclusion of the recent troubles in China, the correspondence and official views exchanged between our government and the powers interested in China, by which there was obtained a general assent from all the nations concerned to the strict maintenance of the policy of the "open door," was a diplomatic triumph with far-reaching results.

The fact that our government has borne so important a part in Chinese affairs in itself suggests that we have real interests in China; nor is it possible, without inviting an economic defeat, for us to remain quiescent in the political duel between Anglo-Saxon and Slavonic policies. Our commercial interests in Asia are large and constantly increasing; to ignore this consideration would be to outrage national common sense. Nothing could be

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more near-sighted and dangerous than to allow ourselves to be deterred from protecting our own interests because it may forsooth be said that by protecting them we may incidentally render England a service. It is our duty not only to acknowledge our own interests, but also to support them. The fact must be recognized that while Great Britain would be the first, and perhaps the nation most seriously, to suffer from Russian dominance, the well-known and unmistakably defined Russian policy of using each new advantage for purposes of further aggressions, and of arrogating to herself in the end arbitrary and prohibitive rights, must vitally affect the interests of the United States in the East, as well as those of all other nations to whom trade relations with Asiatic countries and their commercial development are of importance.

In so far as China is concerned, England's interests — looking to equal rights of trade and intercourse in Asia for all nations, with favor or discrimination toward none — must, perforce, be identical with our own. It will be the duty of our government to realize clearly where our interest lies, to see what ventures should be left to themselves and what supported, and to strengthen England in the pursuance of her present Asiatic policy by at least a strong moral sentiment that could not fail to have a wholesome effect upon the mind of collective civilization. That Russia has been friendly to the United States in the past may be admitted; but as the policies of the two countries have not heretofore seriously conflicted, it might be unsafe to assume that Russia would sacrifice her ambitions to sentimental attachments the nature of which has never been severely tested. Indeed, if we are to secure to ourselves the fruits of our vigorous commercial activity in the East, it will not be wise to expect a discrimination of Slavonic policy in our favor, nor is it possible to lose sight of the fact that, commercially at least, Russia is our most dangerous enemy in China. The steady descent of the Muscovite toward the Persian Gulf and India on the one side, and towards Korea and China on the other, is a distinct menace to the interests of the world; and all the assurances and protestations of Russian diplomatists that their government aims at nothing more than the preservation of China's integrity, the establishment of peace and order in

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that country, and the maintenance of the "open door," are as futile and misleading as they are insincere and immoral. Our government, by the anxiety which it displayed, during the Boxer outbreak, in asking for and securing the assent of the powers to the equitable policy of maintaining China's political integrity, and by its sharp interrogation of and protest to Russia in the subsequent crisis in China, shows that it appreciates the gravity of the situation; and it is well that we should not underestimate the important part which we play in it. When the international situation is so acutely poised, we should have no difficulty, while acting in moral alliance with England and with the support which Japan would give to a combination so beneficial to her interests, in maintaining the "open door," and preserving a valuable sphere of commercial activity in China. On the other hand, we could never hope for freedom of trade, or even for an equal opportunity under the most-favored-nation clause, in those portions of China dominated by Russia or other European powers, all of whom, with the exception of Great Britain, are governed by self-centred and exclusive protectionist policies.

Mr. Chamberlain was quite right when he spoke of "common interests and sentiment" as a bond between nations. Sentiment is not lacking in our relations with either England or Japan, and our interests in the Far East are practically analogous. At no time more than at the present, therefore, would it seem to be more necessary to our interests to support the equitable and liberal policy with which England is identified, of making Asia a free field to all nations within the bounds of legitimate commercial enterprise. While we should give to spheres of influence the respect they deserve, we should go straight for our own interest, which must insist upon the integrity of China and full rights and full freedom for our own enterprise wherever it shows itself able to acquire and control profitable undertakings. The danger of neglect should be always before our minds. To allow matters to drift is to jeopardize our entire interests in the Far East. To act independently by merely protesting from time to time would not be prudent in existing circumstances. There should be, so far as circumstances may seem to require it, intelligent co-operation with the powers whose interests are similar to our own. For

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many years to come, China will present the most elusive, complex, and important problems with which the civilized nations of the world will be compelled to grapple. Having swung out as a world-power of the first rank, we can no longer remain isolated in handling questions of international importance in which our interests are involved. Destiny has already forced us into a position which we did not dream of assuming a few years ago. And there will arise in the future unlooked-for contingencies which will impose upon us new responsibilities, and require us to adopt new ways and means of meeting the unexpected conditions. We have as much right in China, in the acquisition and exploitation of new markets and new fields for our commercial enterprise, as any other nation; and we should not neglect to seize upon any advantage, within the bounds of morality and justice, which will safeguard or promote this end. Whatever our attitude is to be, it ought to be immediately and unmistakably defined.

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THE PANAMA CANAL: THE TITLE AND CONCESSION.

THE passage of the Act of Congress, approved June 28, 1902, "To provide for the construction of a canal connecting the waters of the Atlantic and Pacific Oceans," was the first decisive action taken by the United States Government to secure an isthmian canal. The second important step was taken March 17, 1903, when the Senate ratified the treaty that had been negotiated with Colombia to secure for our country the concession necessary for the canal's construction and management. The action of the Senate promises to remove the third and last obstacle in the way of beginning the actual work of construction. Although the treaty has yet to be approved by the Colombian Congress soon to convene, Columbia has such strong reasons for favorable action that the early ratification of the treaty may be confidently expected. There is, then, a good prospect that the construction of the canal will be in progress under American supervision before the close of this calendar year.

The law of June 28, 1902, authorized the President to buy out the New Panama Canal Company, negotiate a treaty with Colombia for a concession, and proceed by means of a commission with the construction of the Panama Canal. If unable to secure a satisfactory title to the property of the Panama Canal Company, or "to obtain by treaty control of the necessary territory from Colombia," the President was empowered to negotiate with Costa Rica and Nicaragua for a concession, and having secured the privileges desired, to construct the canal by the Nicaragua route. The purchase price to be paid the Panama Canal Company was not to exceed $40,000,000 (the valuation which the Isthmian Canal Commission had placed on the company's entire assets, including the Panama Railroad), and before paying over the money to the company the President was required to assure himself of the validity of the title to the property to be transferred and to await the exchange of ratifications of a satisfactory treaty with Colombia.

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The first duty of the President was to investigate the title held by the Panama Canal Company and to determine whether it was a good one, free of incumbrance, and transferable to the United States. The Attorney-General was promptly instructed to make this investigation, and his elaborate opinion, together with the data upon which his opinion was based, was laid before the President October 25, 1902. The subject intrusted to the Attorney-General was one of great importance, and his report is fortunately comprehensive, thorough, and entirely convincing.

Before the Attorney-General made his inquiry, the validity and transferability of the Panama Canal Company's title had been investigated by the Isthmian Canal Commission and by the Senate Committee on Interoceanic Canals. One of the important duties imposed upon the Canal Commission was to "ascertain what rights, privileges and franchises" were held by the Panama Canal Company, and "the cost of purchasing all of the rights," and of placing the canal under the control of the United States. Accordingly, one of the five committees to which the several departments of the Commission's investigation were committed was the Committee on Rights, Privileges, and Franchises.[1] The Report of the Isthmian Canal Commission[2] contains a full historical and analytical discussion of the subject of concessions.[3] The relations of the original Panama Canal Company to the New Panama Canal Company were set forth, and the opinion expressed that the New Panama Canal Company was able to sell its concession and property to the United States, provided the representative of the rights of the old company, the "liquidator," gave his approval of the sale, and united with the new company in the offer to sell. Shortly after this report was made, the New Panama Canal Company offered to sell out to the United States, and the liquidator gave his consent to the sale. The Commis-

[1] The Chairman of this Committee was ex-Senator Samuel Pasco. The other members were Lieutenant-Colonel O. H. Ernst and Emory R. Johnson. Rear-Admiral Walker, the President of the Commission, was ex officio a member of all committees.

[2] Senate document No. 54, 57th Congress, 1st session. This report was submitted to the President November 30, 1902.

[3] Seventy-one pages, over one-fourth of the report, were given to this question.

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sion prepared a supplemental report[1] dealing with this offer, and came to the conclusion that the offer thus made was one that the New Canal Company was competent to make, and that Congress ought to accept.

The Chairman and a majority of the Senate Committee on Interoceanic Canals disagreed with the conclusions of the Commission, but the report of the majority was criticised by the minority members of the Committee in an ably written report that supported the conclusions reached by the Canal Commission. The latter was accepted by the Senate.

The history of the Panama Canal concession may be briefly told: The Colombian government in 1876 granted a concession to Lieutenant Lucien Napoleon Bonaparte Wyse, who two years later, acting in behalf of the International Interoceanic Canal Association of France, secured from Colombia a new contract granting larger privileges. The following year this concession was transferred to Ferdinand De Lesseps, who in 1881 became President of the *Compagnie Universelle du Canal Interocéanique de Panama*, by which the construction of the canal was actually begun. The concession was for a period of ninety-nine years from the time of completion of the work of construction, for which twelve years were to be allowed, with the possibility of an extension of six years. Colombia was to receive five per cent of the gross receipts from tolls during the first twenty-five years, six per cent during the succeeding twenty-five years, seven per cent during the third period of twenty-five years, and eight per cent from the beginning of the seventy-sixth year. One-fifth of these annual payments was to go to the State of Panama, and four-fifths to the Republic of Colombia, whose share should in no case be less than $250,000 a year. The canal was to become the property of Colombia at the end of the period of the concession.

The Panama Canal Company, after spending a vast amount of money in completing about a third of the work to be done, became insolvent in December, 1888, and in February, 1889, was placed in charge of a "liquidator" appointed by the civil

[1] Senate document No. 123, 57th Congress, 1st session.

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tribunal of the Department of the Seine in France. The liquidator was authorized to turn over the assets to a new company to be organized to carry on the work. The New Panama Canal Company was not fully organized and ready to begin the work of excavation until October 20, 1894. In the meantime the liquidator had authorized M. Wyse to negotiate with Colombia for an extension of the period within which the canal was to be completed.

He succeeded in his efforts, and another contract was entered into at Bogata on the tenth day of December, 1890, granting an extension of the time within which the canal was to be finished and put in public operation by a new company to be organized with a capital sufficient for the purpose. This company was to resume the work of excavation not later than the 28th day of February, 1893.[1]

For granting this concession, Colombia received 10,000,000 francs in gold and 5,000,000 francs of the capital stock of the proposed company. In 1892 Colombia passed a law authorizing the executive to extend the time within which the new company must be organized. The executive granted the new company until October 31, 1894, to organize and begin work. The new company was definitely constituted October 20; accordingly it had until October, 1904, to complete its task. Foreseeing that the work would not be finished in 1904, the New Panama Canal Company, in April, 1900, secured from the Colombian executive a further extension of six years, until October 31, 1910. As there has been no session of the Colombian Congress since 1898, the validity of this last extension may be questioned.

The New Panama Canal Company was organized under the laws of France with a capital stock of 650,000 shares of 100 francs each; 50,000 of these shares, full paid and non-assessable, were turned over to Colombia; the remaining 600,000 shares were purchased at par, mainly though not entirely by the persons and institutions that had profited most by the corruption of the Old

[1] Report of the Isthmian Canal Commission, page 196.

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Panama Company.[1] The long period of five and one-half years which elapsed between the appointment of a liquidator and the successful organization of the New Panama Canal Company was due to several causes. A thorough technical study of the enterprise had to be made. The legal obstacles to a successful liquidation of the affairs of the old company were so great — the suits instituted by bondholders and other creditors were so numerous — that the liquidator was obliged to have the assistance of a special act of legislation which the French chambers passed July 1, 1893. By this law all suits brought by the bondholders were to be brought "by an attorney or mandataire appointed for the purpose." The law also carefully defined the manner in which the liquidator and the Civil Tribunal of the Seine might proceed with the liquidation of the old company. Another reason for

[1] Concerning the manner in which the sale of the stock of the New Panama Canal Company was effected, the Report of the Isthmian Canal Commission, page 83, states: "Thus the cash capital of the company was 60,000,000 francs, or $11,640,000, a sum deemed sufficient for the provisional operations contemplated. The scandals connected with the failure of the old company, which had led to the prosecution and conviction of De Lesseps and other prominent persons, had made it difficult to secure even that amount. Suits had been brought against certain loan associations, administrators, contractors, and others who were supposed to have unduly profited by the extravagant management of the old company. A series of compromises were made with these persons, by which it was agreed that they should subscribe for stock in the new company on condition that the suits should be dropped. Whatever amount remained to make up the 60,000,000 francs, after deducting the sums thus obtained and those to be obtained by public subscription, was to be subscribed by the liquidator. The stock was subscribed as follows, viz:

Eiffel	10,000,000
Crédit Lyonnais	4,000,000
Société Générale	4,000,000
Crédit Industriel et Commercial	2,000,000
Administrators of the old company	7,885,000
Artigue, Sonderegger & Co.	2,200,000
Baratoux, Letellier & Co.	2,200,000
Jacob heirs	750,000
Couvreuz, Hersent & Co.	500,000
Various persons to the number of sixty, who had profited by syndicates created by the old company	3,285,700
Hugo Oberndorffer	3,800,000
Public subscription	3,484,300
The liquidator	15,895,000
Total	60,000,000

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delay was that until changed by an act of the French parliament, passed August 1, 1893, non-commercial associations, such as the New Panama Canal Company, did not have the limited liability feature of the corporate organization with which we are familiar in this country. By an act passed in 1867 commercial associations with limited liability of stockholders were authorized, but only since August 1, 1893, have non-commercial associations with limited liability been permitted.

The causes of delay having finally been overcome, the New Panama Canal Company was constituted, and intrusted with the task of completing the waterway, but proved quite unable to raise the necessary funds. Indeed the prospect that the enterprise might be successfully financed has never been bright enough to cause the company to make any serious attempt to raise the vast amount of capital required to carry through the work. The fact that from 1895 to the present time the United States has had commissions investigating the various canal routes with a view to making the construction of the waterway an enterprise of the government, has, of course, checked the investment of private capital in the stocks and bonds of the Panama Canal Company, and would have done so, even had there been complete confidence in the technical knowledge and administrative efficiency of the company.

The continued existence of the Old Panama Canal Company and the right of its stockholders to share in the profits of the new company, made it advisable for the United States to consider carefully every legal question involved in the transfer to it from the New Panama Canal Company of the Panama Canal property. There were, moreover, some people of high standing who claimed that the proposed purchase of the canal property could not legally be made by the United States. The propositions advanced by those who denied the transferability of the Panama Canal to the United States were summarized under four heads in the "opinion" of Attorney-General Knox on the Panama Canal Title, as follows:

1. That the new company has not power to sell the canal and railway property.

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2. That the liquidator has not power to consent to such sale.

3. That the French courts have not power to authorize the liquidator and new company, or either of them, to enter into the sale.

4. That, at all events, the United States would take the property as a trust fund subject to the total obligations to the stockholders, bondholders, and the other creditors of both companies.

The Attorney-General discusses, in considerable detail, the law bearing upon each of these propositions.

In considering the first proposition the legal nature of the New Panama Canal Company is explained as follows:

The New Panama Canal Company is an anonymous partnership or association, composed of shareholders (Société Anonyme par Actions), which, in view of its object, is of a non-commercial or non-trafficking kind, but subjected by a law of August 1, 1893, to an act concerning commercial associations passed in 1867, and to the Commercial Code and the customs of commerce. All anonymous associations formed since August 1, 1893, are subject to the same, and are, legally speaking, commercial, though in fact not so.

The old company is an anonymous partnership which voluntarily took the form of an anonymous association of shareholders, but is not ruled, and never was ruled, by the law of 1867 or the code and customs of commerce, but only by the Civil Code, having been formed before August 1, 1893, and not being commercial in its object or business.

Anonymous associations or partnerships have not the names of the partners, but a name merely descriptive of their object or business.

The essential or fundamental nature of both companies is that of voluntary partnership, as we understand that. The powers, accordingly, are those which an individual Frenchman has under the general rules of law — an individual merchant corresponding to the new company, and an individual who is not a merchant to the old company. As an individual can sell what belongs to him to whomsoever he pleases (unless some third person has a claim such as properly warrants him in opposing the sale in order to subject the property to a debt owing to him, or the like), so one of these associations, of either kind, can ordinarily dispose of its property.

After considering more fully the general power of such organizations as the New Panama Canal Company to sell its property,

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the Attorney-General shows that this power is affected neither by the contractual obligations of this company to pay the old company sixty per cent of the profits derived from the operation of the canal, nor by the requirement imposed on the old company by a law of France of 1888, stipulating that "All machinery necessary for the accomplishment of the work shall be made in France. The raw materials shall be of French origin." Concerning the first of these two requirements, the Attorney-General holds that

> This contractual obligation of a partnership is the same as though an individual had agreed to complete the canal and to pay the 60 per cent, and is therefore such an obligation as can be released by the other contracting party. If so effectually waived by the other contracting party, no one else could complain or question. Being a merely contractual obligation of a private partnership for the benefit of another private concern, there is no principle of law which would make the new company unable, with the consent of the other contracting party, to make use of its liberty to dispose of what belongs to it.

It has been claimed by some persons opposed to the purchase of the Panama Canal property that the law of 1888, because of the stipulation above quoted, not only made it obligatory upon the purchaser of the property of the New Panama Canal Company to use French machinery and materials, but also bound the French government to the canal companies in such a way as to make it necessary for that Government to authorize the New Panama Canal Company to sell its property. This puts an extraordinary interpretation upon the act of 1888 which is the so-called lottery bond law. This act permitted the old company the unusual right of issuing bonds having a lottery ticket feature. As lotteries have been prohibited in France since 1836, the government exacted of the company to which this lottery privilege was granted "as a compensation to the nation in general for permitting this unusual thing," that the materials and machinery used must be bought in France.

But in view of the general relations of the government to these free partnership associations, it would be going a long distance to see in this an order intended to be addressed to any individual or other *pur-*

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chaser of property from the company which was thus given the benefit of the unusual privilege, and still more to deduce a mortgage or a lien attaching to any property it might sell into whosesoever hands it might come.

Moreover:

the new company has remained a stranger to the lottery-bond scheme. It has not enjoyed the privilege of issuing those bonds; the still unissued bonds have been retained by the liquidator and were not contributed by him to the new company, and they are no part of what it is now proposed to sell to the United States.

Having thus proven that the New Panama Canal Company has power to sell its property, the Attorney-General proceeds to show that the sale can be effected without unanimous action on the part of the shareholders, because the founders of the company, in the by-laws which they adopted for its regulation conferred upon the "general meeting" of stock-holders the power to amend or add to the by-laws. By Article 60 of the by-laws the general meeting is authorized to "decide in regard to a reduction of the capital stock; a reduction of the fixed duration of the association, an extension of it, or an *earlier dissolution of the association, etc.*" This important power of amending and adding to the by-laws was conferred on the general meeting because of the impossibility of securing unanimous action on the part of hundreds of thousands of partners.

The second of the four propositions concerned the power of the liquidator of the old company to consent to a sale of the property of the new company. Although it would have been sufficient for the Attorney-General to state in regard to this proposition that the French courts having jurisdiction, the Civil Tribunal of the Seine and the Court of Appeals, acting under the special law of July, 1893, had decided that the company *has* the power to consent to a sale, he explains the law and the facts that guided the courts in reaching their decision. The New Panama Canal Company's offer of January, 1902, to sell to the United States, had the approval of the liquidator, representing the stockholders of the old company, and the concurrence of the manda-

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taire, the representative of the interests of the bondholders. The approval of the liquidator was confirmed by a judgment of the Civil Tribunal of the Seine, March 19, 1902. One of the bondholders, M. Dannadieu, attacked this judgment, but on the 3d of July, 1902, the court decided against Dannadieu, who was told that he had no case in court because his legal representative, the mandataire, had appeared in court and approved the act of sale. Dannadieu carried the question to the Court of Appeals, which confirmed the decision of the lower court. The controversy might have been carried on appeal to the Court of Cassation, but Dannadieu seems not to have taken that step.

The liquidator being the duly appointed representative of the stockholders, their method of testing the validity of the sale would be to question whether the by-laws empowered the general meeting of the stockholders to make the sale. They have not raised that question.

In the third proposition the point at issue is whether the French courts have the power to authorize the liquidator and the new company to enter into the sale. Inasmuch as the French courts have authorized the sale, and have proceeded according to the rules laid down in the general laws of France and in the Act of July, 1893, in particular, the question here raised really concerns the validity or constitutionality of certain laws of France. Whether the laws of France and the decisions of the French courts do or do not violate the fundamental rights of the people of France is a question that concerns the French people rather than the people of the United States, and we hardly need to give the question serious consideration; but it is an interesting fact that the Attorney-General thinks the special law of July, 1893,

to be defective in regarding too much the rights of individuals and in leaving to the admirable rules of the Code Napoleon questions which might, to the advantage of all concerned, have been submitted to the discretion of the civil tribunal of the Seine, to the ultimate instead of the merely conditional or provisional determination of the mandataire of the bondholders, and to the decision of the liquidator. The winding up of the old company might well have been more summary and more like a bankruptcy proceeding.

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The constitutionality of the Act of July, 1893, was not questioned by Dannadieu in the courts, for the interesting reason that the French courts have no authority to declare ineffective a law that has been regularly enacted and proclaimed. In the United States we have become so accustomed to the practice of having legislative enactments rendered valid or invalid by the decisions of the courts, that it is somewhat difficult for us to realize that "the [French] tribunals cannot oppose the execution of the laws," but such is clearly the legal system of France.

In the fourth proposition cited above, the question is raised whether, in acquiring the property of the New Panama Canal Company, the United States, however legal and valid the title obtained might be, would not secure "the property as a trust fund, subject to the total obligations of the stockholders, bondholders and the other creditors of both companies."

The situation as regards the stockholders, bondholders, and other creditors of the new company is entirely clear. The stockholders will be bound by the action of their representative, the general meeting, which has made the offer to sell. There are no bondholders of the New Canal Company. There are certain bondholders of the Panama Railroad Company (a corporation whose stock is nearly all owned by the New Canal Company). When the United States purchases the property of the canal company it will become the owner of most of the stock of the railroad company, and will accordingly become responsible for the payment of the railroad bonds. The earnings of the railroad during the period of canal construction will easily provide for the payment of these bonds. Concerning the general creditors of the New Panama Canal Company, it need only be said that

> the company being a solvent and more or less flourishing concern, in view of the value of the railroad property, the indebtedness to them is said to be and must be small. It can be ascertained and paid by the company before the sale is consummated, or by an arrangement to apply to it a part of the purchase money.

The debts of the old company (a failing partnership whose assets have been turned over to the new company) can hardly concern the United States as a purchaser, except in so far as the

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property to be transferred to the United States has become or is liable to become affected by liens in favor of the bondholders and creditors of the old company. The Attorney-General made a careful investigation to determine whether the property is subjected to such liens. The possible liens against the property might be of several kinds, mortgages,

judicial hypothecations as the result of judgments, and what may be called attachments or seizures by way of execution of personal property, and seizures of realty for debt.

The reports of the liquidator and the records of the old company make no allusion to any ordinary mortgage on the large amount of land given to the company by Colombia.

The fact that the title to the land on the Isthmus has *never passed* from Colombia, and the absence of all allusion to a mortgage of them, makes it reasonably certain that they are not mortgaged.

Before the special Act of July, 1893, made impossible suits directly by bondholders against the company, nine judgments were obtained against the liquidator. The suits were instituted to recover and obtain judgment for the subscriptions, coupons unpaid up to December 14, 1888 (when the old company went into liquidation), and legal interest on the sums claimed. "The plaintiffs are all stated to have proceeded in virtue of their judgments to garnishee or attack property in the hands of divers persons." The property of the company in which the United States is mainly interested is the real property in Colombia, and our first concern is to know whether that has been in any way hypothecated, although we of course desire to know whether any of the property that belonged to the company in Paris or elsewhere is encumbered. The Attorney-General says:

If there are judicial hypothecations arising from judgments obtained in France, all the judgments that could possibly give rise to them are in Paris, and practically all in the office of one tribunal. A careful inquiry into the matter develops the fact that the judgments referred to, even if they all led to judicial hypothecations, are for the insignificant total amount of about $100,000 and interest. But I am satisfied

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that there are no such liens upon real property on the Isthmus, except upon two buildings, and as to these buildings the liquidator promises that the purchaser shall in some way be given a clear title.

To some extent the personal property of the old company was subjected to pledges.

The machinery, etc., in Panama was pledged by the liquidator to the contracting parties working on the Isthmus, and to some of these were pledged 30,500 shares of the railroad stock, but all these matters were settled in order to turn over to the new company the unencumbered railroad shares and machinery, etc., on the Isthmus.

The report of the Attorney-General further states that:

The *possession* of the personal property in Panama by the new company, which does not seem to be doubtful, which possession must be turned over to the United States at the time of purchase, is inconsistent with *nantissements* or pledgings, which imply the loss of possession by the pledgor.

In addition to the points involved in the four propositions that have been considered, one other question of minor importance has been raised — whether the United States can legally own the stock of the Panama Railroad Company, and thus absolutely control a corporation chartered by a State (New York). Concerning this point the Attorney-General calls attention to the fact that our courts have frequently recognized the authority of the government to own stock in a private corporation, or to own any kind of property of which it may have need. The Panama railroad, moreover, is situated in a foreign country, and thus is neither a highway nor a public institution of New York.

The proof of the validity and transferability of the title to the Panama Canal is conclusive. When the time comes for the United States to tender the payment of $40,000,000 in accordance with the offer made by the company and accepted by our government, further action will need to be taken by the general meeting of the stockholders, the right to ratify the sale having been reserved to the general meeting. In view of the action already taken, the proceedings of ratification can hardly be more than formal in character.

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The Concession and Treaty. — The treaty granting to the United States the concession and rights necessary for the construction, operation, and control of the Panama Canal was signed by Secretary Hay and the Colombian Chargé d'Affaires, January 22, 1903, and ratified without change by the United States Senate, March 17. It is a lengthy treaty, containing twenty-eight articles, but is remarkable for the conciseness and directness with which each provision is stated.

Being intrusted with the duty of investigating and reporting upon the question of rights, privileges, and franchises, and believing that the negotiation of a treaty for a canal concession would follow shortly after its report was made, the Isthmian Canal Commission embodied in its report a full statement of the facts meriting consideration in framing a treaty. In discussing the nature of the concession required by our government, the Commission stated that the United States should obtain authority from the country granting the concession:

> To enter its territory and excavate a canal there with such additional authority as may be necessary to make and enforce police and quarantine regulations, establish and collect tolls and other proper charges, and protect the canal and those engaged in its construction and operation, and the persons and property using and passing through it when completed, such powers and privileges to be exercised subject to the sovereignty of the Republics in which the property is situated.
>
> In order to exercise these rights and perform these functions, the United States will require the control of a strip of territory from sea to sea, including the canal and auxiliary works, with sufficient space at each terminus for all port and harbor accommodations, including offices, warehouses, residences for officials and workmen, docks, lighthouses, and quarantine stations. Within this area those charged with the direction of the canal project during the period of construction, and with the management and operation of the work and its auxiliaries after completion, should have power to protect the entire line from intrusion by evil-disposed persons, prevent smuggling, regulate the kinds of business that ordinarily require control, and enforce police, sanitary, and other appropriate rules and regulations, as well as contracts relating to the construction and operation of the canal.
>
> The strip should be of sufficient width to prevent wrongdoers from easily withdrawing beyond the limits of police jurisdiction and thus

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avoid arrest and escape punishment. It should be not less than ten miles in width; that is, five miles on each side of the centre of the canal throughout its entire length, and including its terminal harbors.

The Canal Commission did not consider it necessary for the United States to acquire sovereignty over the territory adjacent to the canal. The desirability of our country's having the sole and undivided ownership and control of the canal when constructed was emphasized, and the recommendation was made that the compensation to be paid by the United States should be definitely fixed either as a single payment or as a predetermined annual payment, or as a combination of these two methods. The Commission believed that "a compensation to be dependent on the earnings and profits of the enterprise would be subject to the objections which make a div ded ownership undesirable." In most particulars the treaty accords with the suggestions made by the Commission.

The treaty authorizes the New Panama Canal Company to sell out to the United States; exempts the Panama Railroad Company from its financial obligation to Colombia, and gives the United States a lease for a period of one hundred years, renewable at the option of the United States, of a strip of land ten kilometers wide across the Isthmus of Panama. The United States no only recognizes the sovereignty of Colombia over this leased strip, but "disavows any intention to impair it in any way whatever, or to increase its territory at the expense of Colombia or of any of the sister republics in Central or South America." The United States secures the right to construct the canal and harbors, to establish free ports at the termini of the canal, to maintain hospitals, and drainage and sanitary works along the line of the canal and its dependencies, and to instal waterworks and a sewerage system in Colon and Panama, with the authority to "collect equitable water rates during fifty years." Colombia agrees not to cede or lease to any foreign power any territory in the Department of Panama, and the United States guarantees that no country shall be allowed to seize such territory. The damages caused to private land-owners by changing the course of the Chagres River, or by flooding its valley, and the damages inci-

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dent to the construction and operation of the canal, are to be borne by the United States, the amount of the damages to be fixed by a joint commission of the two countries. This joint commission is also empowered to appraise the land that may be expropriated by the United States in the construction of the canal, and this commission is to "establish and enforce sanitary and police regulations." Colombia is to collect no duties or taxes on the commerce using the canal, except to collect duties on importations into Colombia. There are to be no taxes levied on the property of the United States within the canal strip, nor upon the officials and employees in the service of the canal.

Article XIII. of the treaty defines the system of government to prevail within the canal strip, and is one of the most important parts of the convention:

> The United States shall have authority to protect and make secure the canal, as well as railways and other auxiliary works and dependencies, and to preserve order and discipline among the laborers and other persons who may congregate in that region, and to make and enforce such police and sanitary regulations as it may deem necessary to preserve order and public health thereon, and to protect navigation and commerce through and over said canal, railways, and other works and dependencies from interruption or damage.

To meet the difficult problem of administering justice within the canal zone leased by the United States, the treaty provides for three kinds of courts: (1) Colombia is to establish judicial tribunals to determine controversies between citizens of Colombia and between Colombians and the people of any foreign nation other than the United States; (2) the United States is to maintain courts to settle disputes arising between American citizens and the citizens of the United States and the people of any foreign country other than Colombia; (3) the United States and Colombia are to unite in establishing civil and criminal courts composed of jurists appointed by the two countries, to have jurisdiction over controversies between the citizens of the United States and Colombia and between the citizens of all countries other than Colombia and the United States.

It is provided that the canal shall be neutral in perpetuity, in

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conformity with the treaty of November 18, 1901, between the United States and Great Britain; but the United States secures the right to protect the canal. The new treaty in no wise limits the rights of the United States under the treaty of 1846–48 with New Grenada, by which we guaranteed the neutrality of the isthmian transit route and the sovereignty of Colombia. Article XXIII of the present convention gives us the following rights in connection with the defence of the canal:

> If it should become necessary at any time to employ armed forces for the safety or protection of the canal, or of the ships that make use of the same, or the railways and other works, the Republic of Colombia agrees to provide the forces necessary for such purpose, according to the circumstances of the case; but if the Government of Colombia cannot effectively comply with this obligation, then, with the consent of or at the request of Colombia, or of her Minister at Washington, or of the local authorities, civil or military, the United States shall employ such force as may be necessary for that sole purpose; and as soon as the necessity shall have ceased will withdraw the forces so employed. Under exceptional circumstances, however, on account of unforeseen or imminent danger to said canal, railways, and other works, or to the lives and property of the persons employed upon the canal, railways, and other works, the Government of the United States is authorized to act in the interest of their protection, without the necessity of obtaining the consent beforehand of the Government of Colombia; and it shall give immediate advice of the measures adopted for the purpose stated; and as soon as sufficient Colombian forces shall arrive to attend to the indicated purpose, those of the United States shall retire.

The United States is given authority to establish and enforce regulations for the use of the canal, railway, and ports, and fix the tolls and other charges. The treaty stipulates that construction work shall begin within two years from the date of the ratification of the convention, and that the canal shall be completed within twelve years after the period of two years; unless the completion of the work within that time is rendered impossible by obstacles "at present impossible to foresee," in which case the period of construction may be prolonged for twelve years more. Our country is thus given twenty-six years to carry out the project of a lock canal. If we should decide upon a sea-level canal,

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we may have ten years more to complete the task. We shall probably not require more than ten years for the construction of the canal.

As a compensation for the privileges obtained from Colombia by this concession, the United States is to pay Colombia $10,000,000 in gold at the time of the exchange of ratifications, and $250,000 in gold annually, the annual payments to begin nine years hence. The lump sum to be paid Colombia is somewhat larger than we had expected to pay, but the amount is not excessive. Although the payments to Colombia seem liberal, it should be borne in mind that Colombia is making important financial concessions to the United States. She is not only leasing to us a strip of country six miles wide across the Isthmus, but she is renouncing her claim (1) to the annual payment of $250,000 now received from the Panama Railroad Company, and (2) to her share of the profits from the operation of the canal. According to the concession now held by the Panama Canal Company, Colombia was to receive from five to eight per cent of the gross receipts from the operation of the canal, and the concession stipulates that this annual payment from the gross receipts shall not be less than $250,000. The railroad belongs to the Canal Company, and when the United States buys out the Canal Company, our country will own the railroad. Thus Colombia is surrendering a present annuity of $250,000 and a prospective income of $500,000 or more annually. (3) Furthermore, the concession now held by the Panama Railroad Company provides that in 1966 the railroad shall become the property of the Colombian Government. (4) Likewise the concession held by the Panama Canal Company stipulates that the canal shall revert to the Colombian Government at the end of ninety-nine years from the date of the completion of the canal. By the treaty now negotiated, Colombia loses the right of future ownership of the railroad and canal properties.

The powers secured by the United States seem to be all that will be required for the successful construction and satisfactory control of the canal. We are to obtain what is equivalent to a perpetual control of the strip of territory through which the waterway extends; and our authority in the regulation of sanitary con-

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ditions, in the maintenance of order, and in the administration of justice, will doubtless prove adequate. The judicial system to be established in the canal strip is more complicated than might be desired, and there is a possibility that the operation of the joint tribunal of the two countries may not be altogether successful. The United States, however, can hardly suffer much inconvenience from the operation of the judicial machinery during the all-important period of construction, because the treaty gives our government ample authority to preserve order and discipline among the workmen and others that may congregate in the region of the canal, and to enforce such police and sanitary regulations as public order and health may require. This is the view expressed by Senator Cullom, the chairman of the Senate Committee on Foreign Relations, who said in his speech closing the debate on the treaty:

> Necessarily for many years, especially during the years of construction, the judicial tribunals on the zone will be secondary to the police and sanitary regulations, to the power given us to preserve order and discipline. There will be comparatively little actual court work. The United States, having the exclusive powers that I have enumerated, will suffer no embarrassment from joint judicial tribunals.

The canal is to be a neutral highway for the commerce of the world. This is as it should be. The United States has been in favor of the principle of neutrality for more than half a century. The only serious difference of opinion has been in regard to the question whether the principle of neutrality should be enforced by an international agreement, such as the treaty of Constantinople concerning the Suez Canal, or whether the United States should be the sole guarantor of the neutral use of the waterway by the people of all nations. The question has been settled in the best manner. The United States stands responsible for the maintenance of the principle of neutrality. We have given our pledge to Great Britain and Colombia, and no one doubts that our pledge will be faithfully kept.

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THE FUTURE OF THE LIMPING STANDARD.

EVENTS are stronger than theories in shaping economic tendencies. This has been illustrated in a striking manner by the monetary history of the past generation. The limping standard, forced by the logic of events upon France and the other countries of the Latin Union and upon the United States, while deplored by many in those countries as an evil, has contributed to diminish among the civilized nations the pressure for gold, and has permitted several important States to obtain, without too much difficulty, the supply of the yellow metal necessary to the inauguration of the gold standard. There are difficulties about the operation of the limping standard in the countries where it is now in force, growing out of circumstances which will be hereafter discussed; but these difficulties can be avoided where the creation of a coinage system can be undertaken in the light of present facts, and the limping standard may be made the effective means of restoring the par of exchange between the countries of the East and West, so long broken by the fall in the gold price of silver, and thereby of forging anew the link of commercial relationship which is so vital to the prosperity of both hemispheres.

The limping standard is so called because silver limps along behind gold, without enjoying the privilege of free coinage accorded to the standard metal, but nevertheless finding a large use as money, and kept at par with the standard. From a theoretical standpoint, the limping standard may be defined as a monetary system requiring free coinage of the standard metal, with the concurrent use of token coins of other metals, such coins having full legal tender power, but kept at par with the standard by Government control of their output.

The limping standard came about in the countries of the Latin Union as a natural result of the wide departure of the relative bullion values of silver and gold from the official ratio fixed by the coinage laws. These causes were considered by the law-making powers of those countries as compelling action to prevent the loss

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of their gold and their descent to the silver basis. It was recognized in all these countries that gold was the preferred money of modern commerce by reason of its large value in small bulk, its facility of transportation, and its availability for foreign trade and bank reserves. But it was recognized from the beginning that none of these countries could well afford to part with their entire mass of silver at its bullion price, and that the attempt to part with it at the price prevailing at any given date would so load the market with silver bullion that it could be sold only at a still greater loss, if it could be sold at all. Events, rather than deliberate choice, forced upon the countries of the Latin Union the continued use of their silver coins. This was not entirely the case in the United States, where political reasons led to deliberate legislation in favor of silver coinage, but even this legislation, badly conceived and disastrous as it was, may be attributed to the blind instinct which preferred some form of currency during the days of national poverty to the struggle with the richer nations for the existing stock of gold.

If the annual gold production of the world had continued nearly stationary in the face of a growing demand, as was the case from 1873 to 1888, and the countries of the Latin Union and the United States had deliberately sought to reduce their silver coinage to the proportions of subsidiary money of limited tender, as in the monetary systems of Great Britain and Germany, then indeed, with the constantly expanding demand for gold in the arts, "the scramble for gold" which has been the nightmare of bimetallic dreams might have become a reality. Such an influence was probably more felt about the time of the international conference of 1881 than even at a later date, although the anxiety then expressed on the subject of the scarcity of gold was as exaggerated as the fears felt in 1850 over the abnormal increase of gold. It was at the conference of 1881 that the German delegates came forward with the suggestion that Germany would check her sales of old silver bullion, withdraw small gold pieces, and notes of small denominations, and break up her large silver coins into smaller pieces.[1] It was of especial significance that such

[1] International Monetary Conference of 1881, pp. 29–30.

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proposals should come from Germany, because that Government had refused to send delegates to the international conference of three years before. It was at the Conference of 1881 also that Mr. Broch, the delegate of Norway, arguing strongly in favor of the gold standard among the civilized countries of the West, declared that the true field for silver was to be found.

> Not by arbitrarily raising the value of this metal in Europe and America, but by encouraging its use in the countries of the Orient which still have a preferance for it; in that vast Chinese Empire scarcely yet opened to Europe, in that immense African continent, which is to-day invaded from all sides, and where trade is still carried on under the primitive form of barter, but where it would no doubt be easy to introduce the use of silver money.[1]

These expressions of Mr. Broch anticipated to some extent the actual course of events. The influence of the *status quo* always imposes itself with compelling force upon statesmen, however it may be disregarded by theorists. In the case of the countries of the Latin Union and the United States, it was not possible, without great loss to the budget and an economic upheaval, to substitute gold currency for the silver in use. It was possible to rescue the gold standard from disaster by taking under Government control the output of silver coins, and thereby removing the premium offered to the owners of silver bullion to deluge the country with their product at the expense of its monetary system. France elected, or rather was compelled by the force of circumstances, to keep in use her two thousand millions of francs of silver rather than to replace it by gold. The United States, realizing perhaps intuitively the difficulty of withdrawing gold from nations which were then stronger than herself in the competition for surplus capital, pumped silver into her currency until the danger point was reached and passed, and even reasonable bimetallists were compelled to admit that the continuation of silver purchases, instead of promoting bimetallism, would cast the country upon the reef of silver monometallism.

The most attractive feature of the bimetallic doctrine is the theory of compensation, by which the fluctuations in the supply

[1] International Conference of 1881, p. 45.

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and the value of one metal are supposed to be compensated by the fluctuations in the opposite direction of the other metal. This theory, in the words of Professor Foxwell, rests upon

> the general presumption that where you have two sources of supply, each equally likely to fluctuate in quantity, the joint supply would be more stable than either of the separate sources.

This, he declares,

> is the principle upon which you would go in choosing to select for a water supply two sources rather than to leave yourself dependent upon one, provided that there were no reasonable presumption beforehand that both sources of supply would follow exactly the same variations.[1]

Unfortunately, even if this theory were well founded, it cannot be worked out in practice without imposing upon one nation or another the function of a sink for the cheaper metal. France would undoubtedly have acted as a parachute for the fall of silver if she had continued after 1873 to keep her mints open to the free coinage of the white metal, but in doing so she would have witnessed the flight of all her gold to those countries which preferred the gold end of the compensation to the silver end. Between France and any group of other nations, the law of compensation would have kept the aggregate supply of money at nearer its old value than if France and all other nations had adopted gold and disposed of their silver, but the nations which excluded silver from their monetary system would have received the bulk of the gold, and France would have been burdened with practically all the silver.

An interesting suggestion for obtaining the benefits of the law of compensation, without the evils of concurrent free coinage for two metals of fluctuating value, was made some years ago by Professor Léon Walras in a little pamphlet entitled *Théorie de la Monnaie*. He frankly rejected the contention of the bimetallic school that it was possible by law to give absolute fixity of relation to two different commodities. He proposed that whichever happened for the moment to be the cheaper metal should be

[1] Professor H. S. Foxwell's Evidence before the Royal Commission on Agriculture of 1894, Q. 23, 838.

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treated as a token coin, — that its free coinage on private account should be suspended, and that its output should be regulated by the Government. Admitting the necessity for the adoption, under present conditions, of a new ratio between gold and silver, he maintained that silver should be coined by the Government whenever there developed a scarcity of money as indicated by a low mean of prices, but that such coinage should cease before the security of the standard was threatened by the excessive exportation of the standard metal. Carried thus far, his project was not beyond the pale of the world of realities. He proposed, however, in making the project of universal application without regard to time or space, that if gold should again fall below silver at the coinage ratio, then the mints should be closed to the free coinage of gold, and its output should in turn be regulated by the Government. An international agreement he conceded to be necessary to carry out this system without inviting the evils which would follow an excessive coinage of the undervalued metal by any one nation. He declared that otherwise,

> if the Latin Union alone resumed the coinage of crown pieces, the first effect of this resumption would be to make all its gold drift abroad, and to leave it deprived of its standard money.[1]

Professor Walras pointed out that if these evils were restricted by an international agreement, it would be necessary also that the principal monetary powers should regulate their issues of Government paper and of legal tender bank notes in the same way as their output of token coins, or the control of the variations of the value of money would prove illusory. In this theory, so thoughtfully worked out by Professor Walras, lies probably the intelligent diagnosis of the end towards which the leading countries with the limping standard have, under the pressure of events, been blindly groping. Each of those countries has contributed towards diminishing the pressure upon gold, and towards the prevention of undue changes in the relations of the stock of money to commodities, by keeping in circulation token coins of full legal tender power up to the limit of the amount demanded by the needs of trade.

[1] Théorie de la Monnaie, p. 80.

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It is hardly necessary to combat the extreme form of the bimetallic theory, which came to the front in the United States in the silver campaign of 1896, that prices are regulated by nothing but the volume of the standard money, and that in meeting the pressure for currency all substitutes and economies count for nothing. Common sense indicates that if the quantitative theory of money has any force, prices must be higher if a community has a currency stock of $1,000,000 in gold, silver, and paper than if it has only one-quarter as much, even though the latter be entirely in gold. Intricate as is the problem of the relation of money to prices, there can be no such contention intelligently maintained as that all economies in the use of standard money have no influence in accomplishing the ends for which they have been devised, in diminishing the demand for money and increasing its efficiency.

On its practical side the plan of Professor Walras has been unconsciously followed by the countries of the Latin Union and the United States. They have encountered difficulties, however, which justify a careful examination before the limping standard can be recommended for adoption in any new coinage project. These difficulties may be grouped thus:

1. The great difference between the bullion value and the face value of the token coins.

2. The lack of adaptability of the token coins to trade requirements in the advanced countries.

3. The excess in supply of the token coins, or at least the lack of automatic responsiveness in their amount to the needs of trade.

I. The difference between the bullion value and the face value of the coins of the Latin Union and the United States is an almost insuperable obstacle to the substitution of a pure gold currency for these coins, and exposes them to great danger of counterfeiting. The coins are now worth only about forty-five per cent of the value for which they pass in retail trade, and may be legally tendered in payment of contracts expressed in money. No loss to the creditor accompanies these conditions, but a heavy burden is imposed upon the credit of the state in keeping the coins at their face value. It was estimated in 1898 that France, if she had attempted to convert her silver coins into pieces corre-

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sponding to the market price of silver bullion, at the ratio of 35 to 1, would be subjected to an expense of about $235,000,000.[1] Such an expense has inevitably deterred her from withdrawing her old five-franc pieces and selling them for gold. The profit in counterfeiting such pieces is more than one hundred per cent, even when the counterfeits contain the full amount of fine silver contained in the official coins. Many such counterfeits have been found in the United States, some of them containing a fraction more of fine silver than the amount required by law, and their wide distribution has been prevented chiefly by the fact that the official coins do not circulate widely, and any suspicious appearance of new pieces in circulation in a given neighborhood would quickly attract the attention of the agents of the Secret Service.

In a country inaugurating a limping standard system under present conditions, no such wide departure of the bullion value of the silver coins from their face value need be permitted as has come about in France and the United States. When Japan adopted the gold standard in 1897, the ratio between gold and silver was fixed near the market ratio of the two metals.[2] This took away any unusual temptation for counterfeiting, and permitted the resumption of gold payments without disturbing the relation of prices and contracts existing at the time. A similar policy was that recommended by the House Committee on Insular Affairs in the Fifty-seventh Congress, for adoption in the Philippine Islands. Mr. Cooper, the Chairman of that Committee, said regarding the proposed coinage plan:[3]

The proposed coin would be of substantially the same size as the coins now in use in the Philippines. It is made somewhat lighter than the Mexican silver dollar, in order to prevent its rising above fifty cents in gold in case of a considerable rise in the gold value of silver bullion. Containing as it does 385.8 grains of silver of the fineness

[1] Darwin, Bimetallism, p. 51.

[2] The report on the bill declared that "it would be well to raise the rate for our purpose a little, and fix it at one of gold to thirty-two and a fraction of silver"; but the actual silver coins were made only eight-tenths fine, in order to prevent their exportation in case of a rise in silver. — The Adoption of the Gold Standard in Japan, p. 187.

[3] Administration of Civil Affairs in the Philippine Islands, House Report 1540, 57th Congress, 1st session, p. 7.

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of 0.835, it is issued at a ratio to gold of about 27½ to 1, instead of being issued at the rate of 16 to 1, which is the rate of the coinage of the standard silver dollar of the United States. The new coin is theoretically issued at the ratio of 32 to 1, or at half the value given to silver in relation to gold by the American coinage law; but it was not thought desirable to coin it exactly at this ratio, because of the possibility that a marked rise might occur in future in the price of silver bullion. If such a rise should carry silver to its bullion value in gold, the coins would be more valuable as bullion than as coin, they would be withdrawn from circulation, and the islands would be subjected to all the evils of a famine in their currency supply. Ample provision is made against such a rise in the price of silver by the margin of about 20 per cent between the exchange value of the coin at the ratio of 32 to 1 and the amount of pure silver which the coin would contain.

It is unquestionable that if the limping standard is to be made applicable to the conditions encountered in the Orient, it must be by the recognition of a new ratio between gold and silver corresponding in some degree to the recent market ratio. The countries of the Latin Union and the United States, burdened with many millions of silver, coined at the old ratio of 15½ to 1 and 16 to 1, have to deal with a condition whose difficulties they must meet in the best practicable manner; but the limping standard, in its theoretical application, must take some account of the market value of silver, although it furnishes means of guarding against the fluctuations of this value.

II. The lack of adaptability of large silver coins to the requirements of trade in the advanced countries has become very clear as wages have risen and wealth has increased. Such a progressive development causes a natural evolution from a cheaper to a dearer money metal. Silver was once much more valuable in its relation to gold, to commodities, and to labor, than it is at the present time, even at the legal ratios of 15½ to 1 and 16 to 1. When the power of money over commodities was five or six times what it is at present, silver was much more suited to the purposes of money than under modern conditions. As the Vicomte D'Avenel declares:[1]

[1] La Fortune Privé à travers Sept Siècles, p. 64.

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The diminution of the purchasing power of the precious metals has rendered silver inconvenient and unsuited to a multitude of uses which it formerly served. The same object which could be obtained in the year 1400 or in 1500 for one thousand grammes of silver would demand to-day five thousand or six thousand grammes. A kilogram could be carried in the pocket, and five or six kilograms in one's valise; but one objects to five or six kilograms in the pocket, and twenty-five or thirty in the valise.

The situation differs, however, in the undeveloped countries of the Orient from that in the wealthy countries of the West. A currency which contains a large proportion of gold coins is better adapted than a currency of silver to the needs of a wealthy country; but a currency which contains a large proportion of silver coins is best adapted to the needs of a poor country. This is because the standard of wages and prices is higher in the rich country than in the poorer. In British India, China, and the Philippines, where the wages of skilled labor are forty cents a day in silver, or twenty cents in gold, a pure gold currency would leave the average laborer in about as convenient a position in making his retail purchases as Mark Twain found himself in with his million-pound note.

The smallest practical gold coin represents in the Orient the value of one dollar, or the pay of five days' labor. It is obvious that convenience as well as necessity would lead countries under such conditions to a large use of silver currency in preference to the attempt to retain and use a pure gold currency. To neglect of this element in the monetary problem are probably due some of the embarrassments which have been felt in Japan since the introduction of the gold standard; and it may be questioned whether Russia has not vaulted too far, in view of her present standard of wages and national wealth, in adopting the pure gold currency of her richer rivals, Great Britain and Germany.[1]

[1] The Russian delegate at the International Conference of 1881, fifteen years before the adoption of the gold standard in Russia, called attention to the fact that half of what Russia, Austria-Hungary, and Italy would require for the resumption of specie payments would be found if the gold pieces equivalent to ten francs ($2.00) and below were transformed into silver pieces. — Russell, International Monetary Conferences, p. 287.

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III. That France and the United States have suffered materially from their excessive stock of overvalued silver coins, hardly admits of serious dispute. In the United States a serious panic was invoked in 1893 by the large infusion of silver into the currency beyond any natural demand. The excess of silver tended to expel gold and to destroy the gold basis of the currency system. The difficulty was due, however, to the fact that the Secretary of the Treasury was required by law to purchase silver bullion to the value of $4,500,000 per month, and issue circulating notes for this silver without regard to the need for currency in the markets. The moment that the supply of silver or silver notes passed the limits of the normal demand, a progressive deterioration of the currency set in. Assuming that the requirement for currency was a constant quantity, every dollar of new silver added to the circulation tended to expel a dollar of gold. This obviously need not occur under a proper regulation of the output of token coins by the Government.

The essential evil of the token coinages of France and the United States, which has naturally cast discredit upon their monetary systems, is that their token coins have been issued far beyond the demand for them in the channels of trade, and, therefore, far beyond the limit of safety. Both countries have outgrown the prejudice in favor of specie over well-secured paper. Proof of this has been afforded in France by the steady accumulation of silver in the vaults of the Bank of France. From 1869, when the maximum silver holdings of the Bank were 593,300,000 francs ($115,000,000), the silver rose in 1880 to a maximum of 1,282,500,000 francs ($248,000,000), and has ever since oscillated around this figure. There has been no substantial increase in the demand for the white metal for circulation, in spite of the share which has fallen to France of the great increase in the world's volume of trade since 1880. As M. Noel declares:[1]

In virtue of the economic law which tends to simplify methods of payment, silver was at first less sought and then neglected by the pub-

[1] Les Banques d'Émission en Europe, I., p. 183. — The maximum silver holdings of the Bank of France in the year 1901 were 1,124,400,000 francs ($217,000,000), and the average was 1,105,900,000 francs. — *Bulletin de Statistique* (February, 1902), LI., p. 212.

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lic, until it naturally drifted to the private banks and from them to the Bank of France, which serves them as a reservoir. Of the two thousand five hundred millions of silver which France possesses, nearly half is immobilized in a permanent manner in the reserves of the Bank, from which it never comes out unless to immediately return.

In the United States the proof that the era of silver has gone by is afforded by the failure of repeated efforts to increase the amount in circulation and the ready acceptance of paper certificates for the coined pieces. The circulation of standard silver dollars was $67,547,023 at the close of December, 1891, and the highest point attained during the succeeding ten years was only $73,113,520 on October 31, 1901. The circulation of silver certificates, on the other hand, rose from $320,817,568 on December 31, 1891, to $457,154,585 on March 1, 1903. Discredit is inevitably cast upon the silver coins of these countries because they are not exchangeable for the standard metal and they were issued at an antiquated ratio, which makes their bullion value much more disproportionate to their face value than ought to be the case. Each of these countries, burdened with a mass of silver issued at the ratio of $15\frac{1}{2}$ to 1 or 16 to 1, is compelled to deal with conditions as they are, and to maintain its token coins at parity by such measures as suggest themselves without imposing too heavy a burden upon the public Treasury. A government inaugurating a token coinage for the first time would properly choose a very different ratio between gold and silver, and would take measures to check the output of token coins whenever the quantity threatened to flood the channels of the Treasury receipts, or to impair their fixed relation to the standard.

The advantages of the limping standard, under intelligent direction, may be thus summed up:

1. Diminution of the pressure upon the world's supply of gold.
2. The maintenance of the par of exchange between Oriental and Western countries.
3. Adaptability to poor or undeveloped countries.
4. The opening of markets for silver, with the result of steadying its value.

I. The limping standard has become since 1873 the standard of several of the leading commercial nations of the world. These

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nations are France, Belgium, Switzerland, and the United States. The principal countries which adhere positively to the gold standard, with the use of silver only as a limited legal tender, are Great Britain, Germany, and Russia. These seven nations represent a very large proportion of the wealth and commerce of the civilized world, and the influence of their policies upon the stock of money metals is necessarily great. Of the total gold money of the world, they hold almost precisely four-fifths, and even of the silver money they hold nearly sixty per cent, outside the great stocks of China and India. The part which is played by gold and silver in the monetary systems of these seven leading nations may be inferred from the following estimate from official sources of their stock of metallic currency on January 1, 1901:

	Gold Coin.	Silver Coin.
Limping Standard:		
France	$ 810,600,000	$ 421,200,000
Belgium	17,800,000	35,000,000
Switzerland	24,000,000	10,700,000
United States	1,110,800,000	655,800,000
	$1,963,200,000	$1,122,700,000
Gold Standard:		
Great Britain	$ 511,000,000	$ 116,800,000
Germany	721,100,000	208,400,000
Russia	724,300,000	102,500,000
	$1,956,400,000	$ 427,700,000

These figures show that while the countries with a pure gold standard are compelled to make considerable use of silver, their silver stock is less than twenty-two per cent of their gold stock, while in countries where the limping standard prevails the silver coinage is more than fifty-seven per cent of the standard coins of gold. If the continued use of both metals, therefore, has contributed to steadying prices by maintaining that law of compensation in the relative supply of the two metals, upon which bimetallists so much rely, it may be fairly contended that the maintenance of the limping standard in these four representative countries has obviated the need for nearly $700,000,000 in gold coin, and thereby diminished by that amount "the scramble for

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gold" which bimetallists consider to be so serious a result of the general adoption of the single gold standard.

II. The interruption of the old par of exchange between the gold standard countries of the West and the silver using countries of the Orient has been one of the most disturbing features of the fall in the value of silver. The evils which it has caused were forcibly set forth by General Walker in his discussion of the subject in 1896:[1]

> Such fluctuations in the relative values of the two money metals continually involve international trade in embarrassment and disturbances of a most serious character, and often reduce it to mere gambling. Without some tie which can hold the two metals at least near to each other, during the time between the manufacture and sale of commodities and the receipt of the proceeds, the producer in a gold country can never tell for how much silver he must sell his goods in order to make himself whole and perhaps win a profit. The range of possible losses or possible gains from this source is such as to be altogether out of proportion to the range of the ordinary chances of industrial and commercial enterprise. . . . .

It is correctly declared by Major Darwin that

> though it is possible to insure against many of the risks which are thus experienced, the price paid for the insurance constitutes a true burden on trade.[2] . . . . . .

The insurance proposed by the bimetallists against these fluctuations has been that all nations — whether rich or poor, whether their unit of pay for a day's labor was two dollars or twenty cents — should be chained upon the Procrustean bed of free coinage for both metals. A better insurance is offered by the system of the limping standard. The logic which makes silver the most useful form of currency in undeveloped countries points out the natural course to be pursued by those countries in the future in adapting their monetary systems to modern conditions. It is possible for all these countries to adopt the gold standard, while retaining silver in daily use. They thus obtain one of the essential advantages claimed for bimetallism by abolishing the fluctuations

[1] International Bimetallism, p. 139. [2] Bimetallism, p. 132.

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of exchange between gold and silver countries caused by the depression of silver, without drawing heavily upon the world's stock of gold.

Unconsciously this theory has been worked out in British India, where use is found for nearly $500,000,000 in full legal tender silver, but where all this silver is maintained at a fixed ratio to gold. The British Government by the Act of 1899 established a gold fund in India and at London, for the purpose of maintaining the parity of the standard silver coin with gold. This coin, known as the rupee, contained silver worth originally a little less than fifty cents in American money, but it fell gradually to nearly the level of silver bullion until 1893. In that year, as the result of the report of the Indian Currency Commission, the free coinage of rupees was suspended, and the attempt was made to fix their value at sixteen pence, or about thirty-two cents in American money. At first the experiment was difficult. There was a surfeit of rupees, and they poured out in great quantities from hoards when it was found that their legal value had been raised above their bullion value. The Government, however, persevered in selling exchange on India at London as near the new ratio as could be obtained, and in receiving the rupees at that ratio for public dues. Under ordinary conditions these measures would almost of themselves have maintained a limited silver coinage at par with the standard. While this result was delayed in India, it was so completely achieved by 1899 that in that year the Indian Government felt strong enough to establish a gold reserve and offer to deliver silver rupees for gold. The offer was not made at first to pay gold for rupees, but it was soon found that the limitation of the coinage had created a demand for rupees which drew gold into the Treasury instead of drawing it out. Commenting upon these conditions, the Secretary to the Government of India said in his financial statement for 1900–01:

> We have frequently been told, and with perfect justice, that we could never claim to have a true gold standard in India until we were prepared to exchange gold for rupees as well as rupees for gold. By being prepared to exchange, I do not mean that we should accept a legal liability to give gold for rupees, but that in practice, as for example in France, anybody who wanted gold for internal purposes

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should be able to obtain gold freely without let or hindrance. Theorists, indeed, argue that neither France nor the United States possess a gold standard in the full and complete sense of the words. But I think no one will dispute that if we can advance to the same position as France we shall have attained a gold standard for all practical purposes. A year ago it seemed that we should probably have to sit for a long while under the reproach of our critics, and put up with what has been termed an "exchange standard." It then appeared impossible that in twelve months we should be paying out gold to anybody who asked for it. We are doing so now. Whether we shall be able to continue to do so without check or interruption, whether now that we have once started giving gold for rupees we may not have to suspend temporarily, is not a matter about which confident prediction can be made. But it would be reasonable to say that the auguries are not unfavorable for our being able to pursue the path on which we have entered. Our position in respect of gold is strong. In India and London we have accumulated nearly £8,600,000.

In Japan the same system of a silver coinage on a gold basis prevails to some extent. It is perhaps a weakness rather than a strength of the Japanese system under existing conditions, that the silver coins are not full legal tender, and that a determined effort has been made to introduce gold coins into common use. The coinage of the silver yen, of about the size of the American standard dollar, was discontinued with the adoption of the gold standard, and the largest silver piece now issued is for a half yen, or fifty sen. While the Japanese system constitutes the logical application of the gold standard, it represents even more than the gold standard of Russia a somewhat adventurous vault by Japan into the circle of the wealthiest and most advanced commercial nations. The gold standard has been successfully maintained in Japan, in spite of some obstructions growing out of over-speculation; but it may be questioned whether she would not have pursued the truest economy by following the system of British India, in introducing a gold standard instead of the actual use of gold.

III. For undeveloped countries the use of silver in large amounts is a vital necessity, and it usually comes into use, even in the face of hostile laws. Silver is the usual medium of exchange in Java, where a gold standard exists with hardly any gold in use, and it

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is the universal medium in China and other parts of the Orient, even though the coins have to be sought in a foreign and distant country.

The advantage of a token coinage for comparatively poor or undeveloped countries is the same as the advantage of paper credit: — it permits an economy of capital. The token coins are less expensive than coins of the standard metal, both by the margin between their face value and their bullion value, and by the fact that they are made from the metal for which competition is less severe. A country employing a large volume of token currency is not in danger of losing such a currency by exportation. The coins cannot be melted up for their face value. While they may have the character of gold exchange on the country where they are issued, they can only be converted into gold by sending them back to that country in the form of coin when they drift abroad.

The maintenance of a token currency, instead of one entirely coined from the standard metal, is an interference to a limited extent with the automatic play of the self-interest of individuals which prevails under free coinage, but all coinage systems are the result of official action taken to promote the convenience of the community. Constant intervention by the government is a part of the existence of any system, even where free and gratuitous coinage on private account is authorized by law. The advantage of a token currency maintained constantly at par with the standard metal is that the government takes upon itself the responsibility for maintaining the par value of the token coins by means of a gold reserve, and takes the necessary steps by the issue of a loan or by taxation to maintain this reserve. The government interferes with the law of natural selection which would lead the individual to dispense with currency in order to obtain some more necessary form of capital, but in doing so brings a real advantage to the community by maintaining an adequate medium of exchange where it would not be obtained under a system of free coinage of the standard metal without token coins. In this, as in many other matters, the Government may properly intervene to obtain a benefit of great importance to the community as a whole, but of a character which would not result from the free

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play of self-interest among individuals, and could not result from it except by concerted action.

It is a principle now generally admitted, that in order to prevent exportation the subsidiary coins of any country should not be of their full face value. The extension of this rule to token coins of full legal tender power is preferable to going without an adequate currency, if the parity of such coins with the standard can be made unquestionable. In spite of the somewhat artificial nature of such a project, a proper system of token coinage, with adequate provision for supplying gold for export, would operate in substantially the same manner as a coinage consisting entirely of the standard metal. When an excess of the token currency was in circulation, it would come to the Treasury offices for redemption in gold, thereby reducing the amount of token pieces in circulation, and permitting the surplus withdrawn from the Treasury to be exported in the metal of international trade. When, on the other hand, a deficiency of token currency was disclosed by the demand for it, the deficiency would be corrected by the importation of the standard metal and its presentation for exchange into the token coins. This is the principle which has been adopted with such success in India, and which would probably be found efficient in all the countries of the Orient.

It cannot be properly said that such a well-organized system of token coinage involves any other departure from security or sound monetary principles than is involved in other extensions of credit designed to economize the use of the standard metal. The principle is the same as with the issue of bank notes upon a coin reserve, and involves the application of the same banking principles in the regulation of the quantity of the currency and in keeping intact the reserve necessary to maintain the credit issues at an equality with the standard. Undoubtedly, from a theoretical point of view, a token issue of credit paper secured by a proper gold reserve has most of the advantages of a token coinage of silver, and has also a much greater economy. So far as paper is adapted to economic conditions and popular prejudices, it should be introduced in preference to token coins, especially for currency of the larger denominations. The poverty of Japan and her inability to maintain gold in actual circulation have re-

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sulted in the wide use of paper, even down to the denomination of one yen (49.8 cents).

The practical problem, however, with which statesmen have to deal, is the prejudice of the peoples of the East, and many of those of the West, for a currency of ringing metal rather than one of paper. The recognition of money as a commodity is instinctive among primitive peoples, and leads them to prefer a form of money which possesses tangible value in itself, and permits a more satisfying form of ostentation than the display of a roll of bank bills. The adoption of a token coinage, possessing an exchange value approximating its bullion value, promises to be the most important step which can be taken in our time in educating the undeveloped peoples to the true function of money and credit, and the final evolution of a bank note currency resting upon an adequate gold reserve. Metallic tokens cannot be entirely dispensed with, even among the advanced nations. There are reasons connected with the standard of wages and living, and the risks of destruction by weather and insects, which make them naturally preferable to paper in certain tropical and undeveloped countries. Where the bullion value of the coins, moreover, is only slightly below their face value, a token coinage gives more solidity to the currency system, and is less likely to result in demands for the standard metal, than the premature adoption of the highly organized gold-credit currency systems of the nations of the West.

IV. Injurious as the limping standard has proved in some respects to the monetary interests of the countries of the Latin Union and the United States, the logic of events has perhaps, as already suggested, been wiser than abstract theory. If the single gold standard had been adopted in all countries in the form in which it prevails in Great Britain, without regard to their scale of wages and prices or their surplus capital available for investment in the tool of exchange, there would undoubtedly have been a much more severe pressure upon the world's supply of gold than has actually been felt. This pressure would probably have drawn the metallic medium of exchange to the richer countries from the poorer, and left the latter impoverished in their means of carrying on transactions.

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It would have caused a still further fall in the value of silver by diminishing the demand for it. But a large market would be opened for the white metal if the limping standard should be adopted upon a scientific basis in the countries which are now without a currency, or are laboring under the difficulties in their relations with gold countries caused by the single silver standard. Such a system would be an almost unlimited blessing to these less advanced countries for many years to come, and would make their transition to a gold currency almost absolutely automatic if the scale of wages and living increased the demand for gold and checked the demand for silver. The operation of a proper Treasury redemption system would disclose from time to time the demand for either metal, and the coinage of silver could be enlarged or suspended as the demand for it rose or fell. If silver gradually fell into disuse by a rise in the scale of wages and national wealth, the suspension of coinage could be continued indefinitely, as at present in the countries of the Latin Union, and all increments to the metallic circulation would be made thereafter in gold.

Perhaps the most interesting deduction to be drawn from what has preceded relates to the provision to be made for their future monetary systems by Mexico and China. Mexico lingers almost alone under the domain of the silver standard, and her merchants, as a result, suffer from all the fluctuations in exchange and the timidity in the entry of foreign capital which have marked the recent history of other countries which have hesitated to adopt the gold standard. By means of the limping standard it is possible for Mexico and China to adopt a gold basis for their currency without imposing any serious pressure upon the world's supply of gold, or subjecting themselves to a heavy loss in marketing their silver. In the case of Mexico, it would only be necessary to adopt a new gold coin representing about the present gold value of the Mexican silver peso, and to substitute for the peso a new silver coin of about the same weight as the old. Mexico is in an unusual position in respect to her silver pesos, in that they constitute the circulation of China, the Straits, and other parts of the Orient. She could not afford to give a fixed parity to her old coins, because if this parity were even a fraction above the gold

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value of the coins she would have to deal not only with her own circulation, but with that of the entire East. If she offered to exchange gold for silver, or even to receive the old coins at a high gold parity for public dues, she would invite a deluge of silver in exchange for gold with which even the strongest nation could hardly cope. By substituting a new coin for the peso, however, and making only the new coin receivable for public dues, and redeemable in gold at the new official ratio, she would avoid the disturbance to wages and prices which would follow the adoption of a new unit, or the attempt to raise her existing coins to a gold footing.

In China the possibility of establishing the gold standard would possess the fascination of one of the most interesting experiments ever tried in economic history, worked out upon a field larger than that presented by any other country of the world. It probably would not be advisable for China to undertake for many years to offer gold for silver on demand, but if a distinctive national coinage of silver were established, it could be maintained substantially at a gold par. Great quantities of this silver would undoubtedly be absorbed in the interior trade of the country, especially as it developed under the stimulus of Caucasian enterprise. The only points at which the silver coins would come in contact with the gold standard would be at the treaty ports. If they were received everywhere in China, however, for public dues, at a fixed gold parity, they would rarely sink anywhere materially below their gold value. The Chinese Government, in regulating the output of new silver coins, would be able to rely upon the fluctuations in foreign exchange at the open ports. Under such a system the fluctuations of exchange might be somewhat wider than between two gold standard countries, but if the issue of silver was suspended whenever the exchange was unfavorable these fluctuations would probably not be great. It would be possible, moreover, to establish at the treaty ports small gold funds, or to sell drafts upon gold funds at London and the other commercial centres of the West. These gold resources could be employed sparingly by the Chinese Government to provide gold for export, and thereby to maintain something like a par of exchange without holding out the offer to give gold to all comers.

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This would be practically the system pursued by the Bank of France and the Government of British India.

The necessary condition of such a system is Government control of the coinage. It is this which differentiates the limping standard from free coinage, and permits a value to be given to coined money, which is different from its value as bullion because of the specific demand for coined money as a medium of exchange and in the execution of legal tender contracts. The importance of this principle, that limitation of the quantity of a commodity in the face of a given demand will raise the value of the commodity, has too often escaped the attention of the advocates of unlimited issues of silver and of Government paper. Just so much currency as is needed for use at its current value will be absorbed by the community without depreciation in its value. In the case of money, when the quantity exceeds the complex demand, depreciation in value sets in, — first in the rate paid for the rental of money, which draws the surplus abroad to earn higher returns if the money is of a sort accepted everywhere; and second, in the depreciation of its exchange value if the excessive quantity continues to confront only a limited demand. Government control of the tools of exchange involves dangers which are not to be lightly put aside; but under such a system as is here proposed, there would be little temptation to issue token coins in excess of the demand, because the profit would not be large, and the penalty would be swift in coming, and glaringly plain to the public, in the flight of gold, and the imminent risk that the par of exchange would be broken with all other commercial nations.

In some such system as this, which links silver to gold by measuring the value of the cheaper metal in the dearer, is to be found the most scientific and the most practicable solution of the monetary problems of the future in the countries which are being opened to the influences of Western civilization. The difficulties of wide fluctuations in exchange are swept away, or at least greatly minimized, without imposing upon either the gold or silver countries of to-day a system ill adapted to their domestic needs. It was declared by the British Gold and Silver Commission of 1888:[1]

[1] United States Senate Misc. Doc., 34, 50th Congress, 2nd session, p. 85.

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Everything which hampers complete freedom of intercourse between two countries, or which imposes on it any additional burden, is undoubtedly an evil to be avoided or removed, if possible. If, therefore, a remedy could be devised to accomplish this end without involving the risk of other disadvantages, there cannot be two opinions that it would be worth while to apply such a remedy.

To this declaration Major Darwin makes the addendum that

Either bimetallism or universal monometallism would, without doubt, effect a complete or almost complete cure, and the question in each case is whether the remedy is practicable, and whether its accompanying disadvantages do not outweigh its undoubted merits.[1]

The "accompanying disadvantages" have thus far proved too serious to permit the extension of a pure gold currency or of bimetallism throughout the world. The experience of British India, and the plan adopted by the United States for the Philippine Islands, point the way for another solution of the problem more in harmony with local conditions in all countries and with the historical evolution of money. This system not only affords a uniform monetary standard for foreign trade among all nations, but has many of the advantages attributed by its advocates to bimetallism in compensating the scarcity of gold by opening the reservoir of the world's supply of metallic money to the steadying current of silver, with the limitation, however, only that the sluice gates may be closed if the new current threatens to raise the common stock above the level of safety, and to spread ruin over the fertile fields of commerce by driving the standard metal from the reservoir, and supplanting it with the more volatile.

CHARLES A. CONANT.

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[1] Bimetallism, p. 133.

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RADICAL DEMOCRACY IN FRANCE. II.[1]

THE events of August 10, 1792, were revolutionary to the extreme. Hitherto the movement of politics and legislation might, with some strain on the meaning of the words, be designated a reform movement. It was radical reform, of course, for the monarchy was reduced to a shadow, the church to a state function, and aristocracy to a set of mild political privileges shared with all except the proletariat. Nevertheless the kingship, the church, and a suffrage based on privilege, still survived the rude shock of three troubled years. The federates avowed no intention of wiping out these institutions or any one of them; they felt, if indeed their senses and reason were not altogether blinded by frenzied passion, that the present king was a failure, the hierarchy arrogant, and suffrage hampered. Primarily they desired to end forever all interference by Louis XVI with the people's representatives, and to extend the suffrage so as to make representation truly popular. The days of the veto were not to be numbered, but ended; and all virile men were to share political as well as civil rights, since already they all shared military service, the highest of political responsibilities. But human emotions had proved more stormy than the unchained tempests, and there was no monarch of the elements to pronounce the pregnant syllables of command, or still the storms by silent power. The dull roar of riot was scarcely quiet before the agitators realized that the chasm between past and future had opened, and that the continuity of France's political history was broken.

When morning dawned upon the king's imprisonment, there was a new sovereignty in France. It was a hydra-headed sovereign, for it was the radical commune of Paris enthroned where the Capets had sat,—enthroned and in possession of the sceptre. Masquerading as the French democracy, it had completely terrorized its opponents of every quality. Not a royalist, absolutist, or constitutionalist could now be found in Paris, at least not a

[1] See POLITICAL SCIENCE QUARTERLY for December, 1902.

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supporter of Louis XVI; the whilom court gazette became the national gazette by the addition of a few types to the running head line; off went the lilies of France, in came the catch-words of Liberty, Equality — not yet, be it remarked, Fraternity. Of all the departments eight only refused to accept as laws the decrees passed on August 10, and their recalcitrancy was ephemeral. Lafayette arrested the legates of the Assembly, overawed the local authorities of the Ardennes department, and struggled to hold his division of the army for the support of the throne: but in vain. Almost to a man the rank and file of his as well as of other divisions was disaffected to the vacillating king, and the entire armed force of France rallied to the Revolution. Neither tact nor consistency had marked the conduct of Lafayette during the four years past. He believed as ardently in limited monarchy for France as he believed in democracy for America: exactly why, he never fully explained. In his present straits he fled to Flanders, and with him went Alexander Lameth, Latour-Maubourg, and Bureaux de Puzy. But once over the border the Austrians seized them all; and for five years the illustrious marquis, but impracticable general, languished as a prisoner, and was released only by the powerful intercession of Bonaparte. The fate of his companions was less severe.

It is now admitted, and on abundant contemporary authority, that the Revolution during its incipiency was a revolt against Louis personally. But, he being now definitively dethroned, there simply was no king. Naturally, and considering the secret thoughts of millions, there was no haste to enthrone a new one. Nobody shouted Hurrah for the republic, nobody even cried Down with kings. The executive committee moved by its own inertia; Danton was the storehouse of energy, Roland of civic virtue. What Siéyès had denounced as polyarchy proved a working form of government, and, what was elemental to its success, a government truly national, in glaring contrast to the selfish, personal quality of that which it succeeded. Almost immediately, certain of Louis' private papers which had been seized at the Tuileries were published broadcast, turning suspicion into certitude. He had, indeed, corresponded with both the foreign and the domestic foes of France, and had supported the late treasonable agita-

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tions from his own royal purse; here were the proofs of his worthless character in his own words. And France was actually invaded by the Austro-Prussian allies. Events were beyond control: the foe across the border on August 19; Longwy besieged on the 20th; Verdun on the 30th, and captured on September 2. Three days later the invaders set out for Paris, invest Thionville, and enter Champagne. No time for paltering now; any government is better than none; and a national patriotic polyarchy is incomparably above a traitorous monarchy, let theorists babble as they may. Strangers and hostile invaders demand exactly this last; could patriotism hesitate in choosing what appeared the only other possible course, to supplant a shattered throne by a capable commonwealth? With high hearts the people entered on the experiment of government without a king. Anything to save France.

Probably the method was as revolutionary as the fact. The ridiculous Legislative pronounced the suspension of Louis, and announced its intention to appoint a governor for the prince royal, of course as a regent and a guardian to the future king. This was on the 10th itself. With fatuous inconsistency it instantly handed over the person of Louis to the Paris commune, to be treated not as a suspended king, but as a common prisoner held for trial, already half condemned. Five days later the royal name was effaced from the great seal, all official acts being performed in the name of the nation; with the man went the name, but this was no novelty; both were makeshifts, having already been rejected and restored by the people's power; men still recalled the interregnum of the previous year. But now it was a new constituent, a national convention yet to be elected, that should pronounce a final verdict. Gensonné desired that the verdict should be on the abdication; Cambon, however, had these words erased from the resolution; the Convention was thus pre-engaged to pronounce a verdict not on Louis but on royalty and on the constitution itself. Needless to say, no tutor was appointed for the prince royal; the executive committee was a sufficient regency until the convention should decide the political fate of the country.

The ferocity of the commune fed on its own daily horrors. The Legislative struggled with forcible feebleness to preserve some appearance of legality, but deputies were stealing away in such

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numbers as to reduce even the semblance of representative power to less than a shadow, for the body itself was swiftly turning into a contemptible rump. It strove to revive the municipal council of Paris, but could not; its own committee often sat with less than a quorum, sometimes with only three deputies in attendance; its revolutionary tribunal was sluggish and ineffective; its awful laws for taking family hostages, and its statutes authorizing domiciliary inquisition, were executed by extra-legal agents. As the days of August passed, it was clear that whatever energy was left in France was in the fanatic activity of the Paris commune. It was their work which organized methodic butchery, searched the dwellings of high and low for arms and traitors, and finally culminated in the ghastly jail-deliveries of September, the bloody massacres of priests, of women, of gentlefolk in all degrees, of prisoners committed for imaginary crimes, — of all, in short, suspected in any way of complicity with even a royalist or conservative emotion. Our radical historians find no pleasure in the record of these matters, and the unwary might read their books without suspecting such immoral suppressions of truth. What, for instance, is the value of collecting expressions of opinion from a gagged legislature, a gagged press, a gagged administration, a terrorized and horror-stricken nation? Yet that is exactly what is done by the impressionist historians of the present French school, — a school which proclaims its disdain for any supposed ethical quality in history.

No wonder, then, that the story of evolution reads smoothly in their pages. It was on the morrow of the September massacres that the Legislative, stung by the reproaches of those who had it in hand, finally declared itself as opposed not to Louis, but to kings, not to the Bourbon monarchy, but to the institution of royalty. There is but one known instance of the conversion of a royalist deputy, Rabusson-Lamothe, to this extreme position as a principle. There may have been others, but the Legislative rump was completely terrorized by the Paris commune beyond a doubt. It was under sorry auspices that the Republic was conceived; its birth was to be as irregular and premature as its conception.

In any civilized community, even in extremity, the thirst for violence is confined to a small, a very small minority, which, how-

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ever, makes up by intensity for its lack of extension. So Paris at large was hushed, awed, inert, while men were organized into armed force for national defence under the command of a committee which now represented the radical communes. No one resisted or even commented as the statues of kings, even that of the ever popular Henry IV, were tumbled from their pedestals. The wards in open meetings abandoned their old royalist names: a few adopted political appellatives, as, for example, Ward of the Rights-of-men; the most, however, selected new names of local significance merely. Adroit agitators circulated rumors that the allies were to establish a new dynasty over France in the person of either the Duke of York or the Duke of Brunswick. The frenzy of detestation for kings spread further at the thought of stranger-tyrants installed and supported by foreign arms. Yet neither in public assemblies, nor by responsible men, was the word republic used as a substitute for royalty. Even the most radical still clung to the notion of a republican government without the name; the revolutionary commune itself seems to have avoided the word, at least they did not spread it on their minutes. The most they did was to conduct an academic debate in one of the wards, that of the Pantheon-Français, on the respective merits of kingdoms and republics: in connection therewith a low scoundrel, Méhée de la Touche, offered to stab any man that set himself up as king. An order, happily never executed, was issued by the Legislative for the destruction of certain Bourbon monuments, including the fine gates of St. Martin and St. Denis; and in connection therewith was first made mention of a new calendar, — 10th August, 1792, Fourth year of Liberty and First of Equality.

In all this there was no real expression of public opinion. Public opinion does not exist amid the tumults of social anarchy, for its germs are annihilated in their initial stages. Of course there was a newspaper press throughout the land. But what a press! Fanatic, desperate, and irresponsible, its columns abounded in profanity, blasphemy, filth and violence. Hébert in his *Père Duchesne* is thought to have cautiously mirrored such public opinion as there was. This hypothesis is based on a widespread conviction of his general shrewdness in guessing how the cat would jump. The crisis of his life gives little evidence of that quality, and the

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supposition has little value. His articles, if quoted on a decent page, would be filled with dashes and asterisks and suggestive initials, but they would show a steady, shrewd, not to say sly, substitution of republicanism positive for anti-royalism negative. Louis once dethroned, the solitary republican paper, *Journal of the Men of July* 14, ceased publication. Robert, in the *Revolutions of Paris*, mentions the word republicans as having been used for a synonym to factions. Condorcet on September 5 avowed himself republican for the second time in his *Paris Chronicle*. The other surviving papers, including that of Robespierre (*Defender of the Constitution*), continued merely to abuse royalty, and were non-committal as to the republic. Marat constituted himself a second Athanasius, and in the face of all opposition demanded a dictatorship to meet the great emergency; foreign and intestine disorders had brought the nation to the verge of dissolution; the crisis seemed to demand a present, unitary, controlling will-power. There were a few individual utterances of importance which flatly called for the republic. Lavicomterie, a pamphleteer, justly thought it impossible for the coming Convention to establish government under any other form than that of a republic, and printed his reasons; so too did Kersaint, who printed an essay entitled "Monarchy without a King." Roederer, faithful in turn to each social phase as it passed, published his "Observations," a republican tract. The famous constitutional Bishop of Blois, Grégoire, demanded a popular government under whatever name, accepting even that of republic. The most clarion note of all was that of the Protestant Rabaut-St.-Étienne: "This king has delivered us from all kings. A year of his perfidies has done more than an age of reasoning to destroy royalty, rendered decrepit and sacrosanct by six thousand years of idolatry."

The elections of deputies and substitute deputies to represent the people in the coming Convention took place in the capitals, national and provincial, simultaneously or almost so with the terrorizing movement which culminated in the September massacres. Of course, therefore, although all male citizens, active and passive, now had the ballot, nobody voted who was in any degree known as a supporter of old institutions in either church or state: to confess religion was already substantially equivalent to a confession

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of royalty, which was now treason. Yet among the so-called patriots there was in voting a line of division: some following Brissot, and considering themselves moderate men; others guided by Robespierre, and professing national fervor to any extreme. As yet these men, one and all of both factions, were devoted to saving the country under any organization which would save it from the dictation of any king, their late one or another. They had been divided on the question of war, the moderates having supported the policy of an armed offensive as a means of internal harmony; but the war was now on, and they were unanimous in its support.

There was no hard and fast line of division, for there was constant flux from and to either attitude of mind within the one and only party now daring to exist and lift its head. In our perspective the fundamental line of scission, though existent, was not evident; in the main the men elected to the Convention were adherents of the Paris commune, while those defeated were representatives of what they believed to be the public opinion of France as a whole. Marat got his dictatorship, but it was not the personal one he desired, it was the renewed, revivified dictatorship of the Paris populace. Such was to be the active principle in the new birth of France; with such attendants could the new system be otherwise than premature in its advent, imperfect and foetal in its development? It was in this dull rumbling of strife that radical democracy took courage to declare itself. Brissot, Vergniaud, Condorcet were candidates for the Convention, and were defeated, even for nomination, in Paris, though elected elsewhere: the cautious Robespierre had a feeble majority in the capital. It was the avowed old-time democrats of June and July, 1791, Billaud-Varenne, Lavicomterie, Robert, Boucher de Saint-Sauveur, and the like, who were triumphant in Paris, and they brought with them from their constituents a formulated demand for a republic in the radical democratic sense. It was in the electoral assembly of Paris that the word was first magisterially enunciated.

The Jacobin club was quick to catch the tune. Its sessions throughout the revolutionary week had been sparsely attended and irregular. There was scornful denunciation of the Legisla-

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tive for its suggestion to train an heir to the throne, and there was a motion to change the name from Society of the Friends of the Constitution to Society of the Friends of Liberty and Equality. But the motion was tabled, and not until after the publication of the king's treasonable correspondence was the expression of democratic ideas applauded. Then only were the phrases of Louis the False and Louis the Last heard with approval: while a bust of Brutus was set up and hailed with cheering. On August 27 in full assembly the members swore to purge the land from the scourge of royalty, a mixed metaphor to express mixed emotions. Their final pregnant utterance was the prompt reiteration on September 2 of the call for a republic made by the Paris electors. It was the final settlement of the vexed question; for they not only made the republican cause their own, they recommended it with fire and zeal and persistent iteration to all their affiliated societies in the greater and lesser centres of the country. These societies, though for the most part relatively small, were very numerous; they were proud of their connection, and they vied with the mother society in energy. When they took up the cause its success was no longer doubtful.

It does not appear that their task was laborious, for the whole nation was in a fever of patriotic resistance to invasion, and no one dared longer to say that such a king and such royalty as they knew, the only one they knew, were other than detrimental to the commonwealth of France. What therefore was needed was a rallying point for the radicals of each community, and this was everywhere furnished by the local Jacobin society. Necessity seemed, in the words of Toulongeon, to have rendered the republic inevitable. Substantially nothing is so far known of the achievements or methods of these clubs. This is because the local antiquaries of the French departments are everywhere priests, the radicals being fully occupied not with past but with present politics, and the Catholic clergy are far from sympathetic students of Jacobin history. Even the indefatigable Aulard has balked at the heavy, bulky, departmental archives: he instances the Paris volunteers as carrying the cry of "the nation without a king" to the army of the Vosges, and with frankness admits that he knows of only six cities, Rochelle, Roche-sur-

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Yonne, Strasburg, Brest, Soissons, and Montargis, where language was widely used which could be interpreted as more than anti-royalist. Further, certain legislative emissaries reported the country districts as strongly republican, especially throughout Normandy. This he admits is but feeble proof, and only negative in value.

To us, however, even these statements are of the utmost importance. With radical procedure in Paris and other great cities we are tolerably familiar; there is no reason to suppose that it was greatly different elsewhere. It seems almost certain, therefore, that the same brag, bluster, and moral if not physical violence, was used in the rural as in the urban districts. It was beneath the pall of horror and terror which covered the land that the primary assemblies were elected on August 26; it was among a people cowering before the actual furies of the massacres that, from September 2 onward as late as the 23d, the electoral assemblies were held to choose the deputies themselves. No wonder that the complexion of the Convention was republican when all public opinion was silenced by terror, and the nation saw no other deliverance from a foreign invasion and a foreign dictation which could only end in dismemberment and annihilation.

Of course the central government did not intervene to control the elections; it was too feeble and contemptible for that. Except in one or two unimportant instances the local authorities permitted any male of suitable age to exercise the suffrage. Yet the elections were neither by secret ballot nor without controlling influence, for the Jacobins of each locality and the legates of the government were ever at hand to menace. It will never be known what number of voters exercised their right; but from he scanty indications which have been preserved in scattered instances, a conservative estimate would put the proportion at a third. The Legislative had absolved everybody from the oath to the Constitution of 1791; it called on the voters to give their representatives the widest powers; the very name of the new assembly indicated in the language of the time a mandate to throw over the existing system and substitute a new; there was a form of election, there was a body of deputies, and they met on September 20. The Convention thus convened represented all that was left of true

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vitality in France. There was not a royalist in it. There were many constitutional priests. In it there was a force which remains unique in the history of any land as daring anything, electrifying a population, and terrorizing both France itself and all the civilized world besides — at least for a time. Elected by terror, the Convention naturally found in terror the sanction of its acts, and that sanction it did not shrink from applying to the fullest extent.

During its sessions there soon appeared radical differences of opinion as to the purposes for which it had been chosen and convened by the sovereign people. Of one mandate which it had from the minority that elected it, there could be no doubt: it was chosen to tear down monarchy as a system of governing France. Of several thousand primaries, only thirteen called for monarchical government, but of the secondary electoral assemblies not one. Yet that of Paris was the solitary one to use the word republic. This general timidity appears inexplicable at first thought, for the minutes of the meetings denounce royalty and hereditary privilege in unmeasured terms, while with equal emphasis they call for a free government wherein and whereby the sovereign people can exercise its sovereignty. No pitfall is so frequent in history as that laid by the changes in the meaning of words. What the French proletariat desired was something which the word republic did not then connote. They knew only of republics where the power had been burgher or aristocratic; what they wanted was a government wherein the masses were supreme as against the classes, and as yet there was no name for such a system, though Rousseau had indicated its possibility in the *Social Contract*, and thousands had dreamed of it as a Utopia. This radical, democratic Utopia they meant to realize; but as they had no precedent and no word for it, they were content with the understanding, implicit if not explicit, which they had with those who really represented only themselves, though styled deputies of the nation. There was a reflex action between electors and elected; the latter were already known as anti-royalistic, some supporting immediate action, others suggesting procrastination, but for the restoration of monarchy in permanence there was not a supporter. Every avowed republican of mark, except Bonneville, is said to

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have been a Conventional. One of them, Carra, proposed to bury alive any deputy who should suggest restoration! Talk like this inflamed all fervid minds to a state bordering on frenzy.

Such prating was all very well negatively, but in questioning themselves as to their further procedure the men of the Convention grew suspicious both of themselves and of each other. The huge, dumb, sullen, silenced mass of discontented Frenchmen who were a majority of the nation, and might any moment rise in angry rebellion, were not to be disregarded. The idea of a democratic monarchy was ever present as a compromise, and there in the thick of the revolution was the Duke of Orleans, formally styled Philip Equality by vote of the Paris commune, who was a constant candidate for such a throne and a living reminder of the policy. It was not long before the country party believed that the extreme radicals of the capital intended to adopt this plan and turn themselves into an Orleanist court party, but it was not until a few years later that those who held this belief openly denounced the Mountain as royalist at heart. In this denunciation were included Robespierre, Danton, and Marat. The latter, arch-demagogue as he was, claimed to find in the rich "Equality" a fellow spirit, and publicly appealed to him for pecuniary support. Some one — later his disciples all disclaimed the honor — suggested the shady aristocrat as a candidate for the one remaining vacancy among the Paris deputies. On September 19 the election took place: he had a bare majority, if indeed, as one ward denied, he had any at all. In any case, after much wrangling he was counted in, and in due time took his seat. So it happened that first and last there had been mentioned by men of the Convention three possible candidates to a democratic throne, — the dukes of York, Brunswick, and Orleans. When therefore the hag of suspicion began to ride the beds of the clique leaders, there were muttered charges of royalist conspiracy against the one and the other, always without specifications, of course. In consequence, one and all, they were forced to stand out as vigorous defenders not of a democratic monarchy but of a democratic republic. All this reacted, as we have said, on their supporters, and both voters and deputies forced upon themselves and the world the conviction that they were republicans by principle, advanced liberals, de-

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fenders of popular sovereignty against monarchical, aristocratic or burgher privilege, bitter opponents of royalism both political and ecclesiastical.

We must ourselves stand aghast in repulsive sympathy with men forced to face a problem like that which confronted French politicians in 1792. At that moment there was not an existing government based on unlimited manhood suffrage: even in the United States there were most important limitations on the exercise of federal, state and municipal or local suffrage. The governments of Europe rested either on force, or on apathy, or on habit, or on all three. The popular will in the extreme logical significance of that phrase was then unknown as a sanction of law. Now August 10 had established a semblance of popular sovereignty in the fullest sense. How was this sovereignty to be exercised? The first clear call was for the abolition of indirect election. The Convention itself had been elected by indirect election, but the system was unpopular. In the manner of voting, the French people were familiar with a brilliant contemporary example in America, where there was but a vestige of indirect election left, that of the electoral college, which already gave evidence that it was a futile if not a still-born institution. The choice of senators was diplomatic rather than political. Whether the French radicals knew this fact or not their instinct was first and foremost for the abolition of the electoral assemblies. Secondly, there was a less vigorous demand that deputies should not be representatives, but should be mere mouthpieces of their constituencies, to be recalled at once when they no longer served as such. Thirdly, there was a call, still less loud, that measures passed by the legislature should be referred to the direct popular vote before becoming valid laws. As was remarked in another connection, this would make the French people the second chamber or Senate. It was a return to an old idea. In fact, the political sensibilities of the French then as now cannot be considered as highly organized. That which is highly organized, the social and economic sense, then as now, preoccupied the people. The Constituent assembly had buried feudalism on August 4, 1789, but not out of sight. The measures to commute and cover into the treasury many forms of feudal dues had proved most inadequate; what was wanted, and

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what the Convention was most concerned to do, was, in the jargon of the hour, to defeudalize French society promptly and completely. Theory as to representation, as to the division and exercise of political power, must wait until popular support had been secured by adequate performance of the first task, the deliverance of France from its traitors with the whilom king at their head and from foreign foes. And popular support would come only from popular contentment.

What the country masses, the peasantry, wanted was the complete emancipation of the land from all contributions based on ancient prescription. This secured, they would be content. But there was a serious menace in the attitude toward them of the Paris masses. The first agents chosen by the provisional executive council to carry through a draft for soldiers in the northwest were rank socialists. These men announced with silly complacency to the peasantry that the way was preparing to make all property secure, that is, all property which was truly such, since in the land of a nation no individual could have individual rights. The words ran like wildfire from place to place, and in a twinkling the fury of a conflagration burst over the new government, even before it came into existence. It was with the utmost difficulty that the popular passions could be appeased. The agitation must have been more or less extensive; for, antecedent to this, several electoral assemblies had forewarned the people, demanding the security of landed property under the coming constitution. The conservatives had slyly insinuated the essentially socialistic quality of the dominant radicalism. Here was another symptom of the fundamental difference between the masses in Paris and in the country.

Of course men were already discussing the character of the coming executive. There was already in existence an executive committee of six, which was working fairly well in organizing the national defence. Should it be made permanent or not? There was a division of opinion. Some were for a president; but the idea of a single executive, even though elective, was pregnant with the possibility of dictatorship and of monarchy; and besides, where was the man? Marat was vociferously demanding a dictatorship, and the already discernible triumvirate of himself with Danton

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and Robespierre would certainly have eventuated in a horrid tyranny. This notion therefore was distasteful to most, especially in the country, where all three were suspected of hateful agrarianism. On the whole, therefore, it appeared safest to keep an executive committee whose members could be replaced, as occasion required, without detriment to the public welfare. On this the nascent parties were both agreed.

Another question of enormous import about which the coming factions were utterly at variance, was that of how far local self-government should go. The country folk and the provincial burghers were a unit in desiring the highest possible degree of local self-direction, because both elements feared the dictation of Paris. The reform movement was considered by enormous numbers to have finally culminated in the federation which had unified the nation as far as was desirable, and Rousseau had categorically declared himself an advocate of federal government for free people. His language, taken from the treatise on the government of Poland, was constantly cited, as was also the example of America. But the radicals intended merely to substitute themselves for the Bourbons in a strong centralized rule. With the various districts of France free to talk and act, not one of their favorite ideas could be realized. So the Jacobins, the rankest possible opportunists, replied that the theory might be well enough in general, but to meet the present crisis of France against the world there must be a strong central authority — what they called, and what is still called in France, a unitary republic. Not a single one of the coming Girondin leaders found a voice or an argument to reply. Here and there a local assembly made itself heard in favor of centralization, and so gradually it was generally understood that the federal idea was to find no expression in the new constitution. There is but a single pamphlet on the subject, and that is mildly federalist in tone. This is the *Republic without Imports* of Lavicomterie, an ardent radical who wants above all else the destruction of existing forms of taxation. Inconsistency could really go no further when the radical view of representatives as mere deputies was thus made coincident with the Tory view of each as representing the whole country; for that, of course, is essential in the unitary republic.

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Simultaneously with the discussions of these questions, carried on in the clubs, the newspapers, and the cafés, there necessarily arose the question of foreign policy. That, too, was copiously treated in the same one-sided manner, — that is, by those who were not terrorized and to whom utterance was given. In this respect at least their instinct was patriotic and correct. Immediately and instantly they had to drive the Austro-Prussians from French soil and dictate a peace. But how was this feat to be performed by a distracted government and an anarchic land? France was indeed chaotic. The almost unbroken current of ecclesiastical legislation, both in the Constituent and in the Legislative, had created a schism in the church; had alienated the whole mass of devout ultramontane Catholics, probably a large majority; had supplanted the natural rulers of the people by officials who had nothing in common with the people except their language; had produced broils, riots, and civil war in many important districts. The Terrorists proudly boasted that they had "decatholicized" and "deroyalized" France: they were on the way to republicanize it, but how were they to save it? Already they had invented and applied a new sanction for conduct, at least new in both the degree and extent in which they were applying it, the sanction of Terror. This was not force nor habit, neither fear nor apathy, neither patriotism nor selfishness, it was downright Terror. So they were convinced; and, as they were demonstrating, this procedure could create a desert in France and call it a peace, it could raise money, draw men by conscription, organize armies, and put them in the field. But could it make officials honest, and force men to fight with zeal? A thousand times, No! and this was well understood. There must be an ideal for which the emotions would quiver, a cult for which the moral sense would stiffen and harden. The resolution of the leaders was quickly taken. The idea of country must be substituted for the idea of God, of glory for duty, of patriotism for faith. Almost in a moment there sprang up a negative, deistic creed which supplanted in the men of the Revolution all that other men had heretofore held sacred; a creed held with the same fanaticism as that which degraded the Inquisition to its basest form, flaunted as only Mahommedans had flaunted theirs, erected with a fetich which overawed even the initiated.

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This resulted in what the French term propagandism. With the absolute truth on their banners, the absolute standard of conduct in their minds, the absolute polity in operation, there could be nothing short of fiery missionary zeal in the civil and military services of France. The spark was soon struck, soon too it was fanned into flame, and with the advance of the conflagration men were turned not merely into zealots, but into missionary desperadoes. The cry for propagandism was almost a war-cry; for it meant that regenerated France was to regenerate Europe and the world, with the assent of the converts if possible, without it if need be. In any case the populace of Europe must be aroused from apathy, emancipated and enfranchised, if the French populace were to hold its own. This dumb but powerful feeling was behind the almost frenzied determination of the Paris commune which published the missionary programme as early as August 13. The only dissenting member was Robespierre, whose ambitions were bounded by France, and who had some conception of what a true foreign policy meant. The notion of universality was deep in all European hearts. Universal empire, universal church; why not a substitute for both in the universal commonwealth of man? The title of French citizen was held to be honorific, and was bestowed as such by the Legislative upon a number of foreign gentlemen, one of whom in accepting it swore fidelity to the universal nation. He was heard with applause as the "orator of the human race," while he pleaded for an all inclusive Philadelphia, a catholic city of brotherly love. This was the Prussian Anacharsis Clootz, generally considered the "crank" of the Revolution. If so, he turned thousands with him, and two important departments elected him their deputy to the Convention by great majorities.

Such were the announced opinions and aspirations of the men who formed the nucleus where centred all the lines which brought support to the patriotic movement. These few men, moreover, were not destitute of foresight, and with such aspirations they naturally thought Prussia nearest akin to them of all the continental powers. They believed, mistakenly to be sure, but they believed that after France that kingdom had accepted more completely than any other the political philosophy of the eighteenth century. Propagandism, therefore, would be easier in the domains

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of Frederick William than anywhere else, and its supporters looked for a Franco-Prussian alliance as soon as victory had dissolved the existing Austro-Prussian compact: for this they depended not on the Hohenzollern monarch, but upon the earnestness of his people. So profoundly was this idea rooted in the French mind, and so inextricably was it intwined with the revolutionary movement, that not until Napoleon had given a final trial to its validity, was it abandoned. The disappointment was general and bitter, and it largely accounts for the savage feeling in the nation which put its forces at Napoleon's disposal for the purpose of dismembering the Prussian monarchy.

This dissemination of the missionary temper throughout France is a fair example of the entire revolutionary process. When the Convention assembled in September, 1792, the few controlling spirits desired a democratic, unitary, proselyting commonwealth. Their ideas of name, constitution, and functions were desultory and vague. In the storm and stress of both foreign and civil war they could not formulate them nor clarify them. The masses understood only what was in existence, an elective assembly with an executive committee. The leaders were fain to work with the tools at hand if they were to banish the Bourbons and destroy hereditary monarchy as a system. To them and to the masses the word Republic had any number of meanings, and connoted many ideas. Yet etymologically it denoted the public weal; moreover, it was associated with Rome in her great days, and as the Roman commonwealth or republic had succeeded the Roman monarchy, so now the French republic was to succeed the French monarchy. The proletariat of France wanted what it had; the ruling men must use what was in existence. All that was needed was a name; and the name was almost if not entirely settled before it was adopted, by the fact that there was no other.

What, therefore, the Convention did was to accept the prematurely born republic which it found. Undeveloped, illegitimate, casual, the abnormal parvenu was but fairly acceptable to those charged with its upbringing. Still they adopted it, baptized it, and sought to nurture it according to their finest theories. At the climax of its short life it had an amazing notoriety, a fierce spasmodic energy, and a tremendous popularity among its spon-

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sors. But it was not really viable from the beginning, and its existence ended as it began, in chaos. "Where," cried Barère, about two years later,

> Where was the republic at the beginning of this campaign? In a few decrees, in the hearts of a small number of steadfast men, determined to the end on securing their liberty. Where is the republic now? In the unbending will of the representatives, in the courage of the armies, in the wish of the people, in the popular societies, in the victories of Vendée and Lyons, and in the hearts of those free comrades (*sans-culottes*) who are devoid of monarchical and religious prejudice, who know no god but that of nature and of liberty.

This was not mere rhetoric; it exhibits by silence every failing of the radical democracy. It was a class device, it was based on the exhibition of force, it was the result of accident and theory compounded in equal parts, it was a set of substitutions where mere negations had left a void, it had no creative, organic originality, for it had no evolution behind it.

W. M. SLOANE.

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CUSTOMARY LAW. I.

Roman and Modern Theories.

AT the time when the Roman law had reached its highest development, when the supreme power of interpretation was vested in a personal sovereign, the emperor, and when such changes as seemed desirable and could not well be made by interpretation could be and were made by imperial enactments, the Roman jurists and the emperors themselves asserted that law was established by custom as well as by legislation. They treated these two sources of law as equal in potency: they recognized that law, whether of customary or of legislative origin, might be changed either by legislation or by custom.[1] Even written law, they declared, might be superseded by a contrary custom, or disappear in consequence of non-user: "enactments," Julian wrote, "are abrogated by desuetude."[2] The jurists who expressed these opinions were not closet thinkers, but were actively engaged, as judges and as members of the imperial council, in the administration of justice and in the drafting of laws.

Neither in the Roman juristic literature nor in the imperial constitutions do we find any dissent from these doctrines. The only qualification anywhere hinted occurs in an imperial rescript of the fourth century, in which it is declared that custom is not to prevail against the spirit and purpose of the law as a whole, or against imperial legislation.[3] If this passage be construed to apply to custom in general, it would be wholly inconsistent with

[1] Dig. 1, 3, fr. 32–40. *Cf.* Inst. 1, 2, § 9, and Cod. 8, 52 (53).

[2] Dig. 1, 3, fr. 32, § 1. *Cf.* Inst. 1, 2, § 11, and 4, 4, § 7; Cod. 6, 51, c. unica, pr.; Nov. 89, c. 15.

[3] Cod. 8, 52 (53), c. 2: "Consuetudinis ususque longaevi non vilis auctoritas est, verum non usque adeo sui valitura momento, ut aut rationem vincat aut legem." *Cf.* Nov. 134, c. 1, *in fine;* Decr. Grat. dist. 11, c. 4, and Decretal. Greg. IX, 1, 4, c. 11. Ratio iuris (and, often, ratio alone) is something narrower and more definite than reason. Ratio legis is the intent or purpose of a particular law; ratio iuris the tendency of the law in general. See Heumann, Handlexikon zu den Quellen des römischen Rechts, Ratio (5) and passages there cited.

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the dicta of the imperial jurists and with other utterances of the emperors themselves. It probably refers to local custom; and the principle which it affirms applies equally to local custom and to local legislation. In a state in which law-making power is centralized, no form of local law can prevail against general law.[1]

The Roman doctrines regarding customary law were neither challenged nor doubted in the middle ages; but the qualification which we have just noted disappeared. The mediæval European idea of the relation of local and general law was precisely opposite to the Roman imperial idea. According to the mediæval idea, the local law of the manor, village or city, whether written or unwritten, prevailed against the law of the province, and the law of the province prevailed against the law of the realm. This idea squared with the political facts, at least after the disruption of the empire of Charles the Great; and it began to disappear only when the political facts changed — when, first in England, later on the Continent, the hands of the kings were so strengthened that they were able to establish national states.

As far, indeed, as ecclesiastical law was concerned, the church upheld the Roman idea. It asserted that neither local nor provincial nor national law or custom, whether secular or ecclesiastical, could displace the general law of Christendom.[2] It made significant reservations, however, which facilitated compromise. If neither the unity of the Christian faith nor the necessary discipline of the Christian Church were impaired or imperilled, not only might national councils adopt rules varying from those of Rome, but a contrary custom in a locality might be pleaded against the general laws of the church;[3] and even in the absence of any such positive legislation or custom, it was sometimes inquired whether the general rule established by the church had

[1] So Windscheid, Pandekten, I, § 16, n. 5, § 18, n. 2. For other explanations, see Vangerow, Pandekten, I, § 16, note. Dernburg, Pandekten, I, § 28, n. 5, rejects all explanations offered, and assumes a flat contradiction.

[2] Decr. Grat. dist. 11, c. 1–3, 11; dist. 12, c. 1, 2. Decretal, Greg. IX, 1, 4, c. 3, 4, 5, 7. Sexti Decretal, 1, 4, c. 1, 2. Extrav. comm., 1, 1, c. unica.

[3] Decr. Grat. dist. 11, c. 6, 8; dist. 12, c. 3, 4, 6–11. Decretal, Greg. IX., 1, 4, c. 8. Sexti Decretal, 1, 4, c. 3. *Cf.* Maitland, Canon Law in England, p. 10, n. 3, 4.

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ever been "accepted" [1] — a practice which led to Gratian's broad assertion that "laws are instituted when they are promulgated; confirmed, when they are approved by the custom of those who observe them." [2]

Apart from this question of the relation between general and local law, the mediæval theory was identical with that of the Roman jurisprudence. Any different theory would have been singularly inconsistent with the legal situation. Not only were the customs of manors, of cities and of provinces recognized as law; there were also general European customs. Decisions made in Lombardy were cited in all the feudal courts of Europe; judgments rendered at Pisa, at Barcelona and at Oléron enjoyed an equally wide authority in questions of commercial and maritime law. Class custom was law not only for merchants, but also for artisans and peasants; and in certain matters (particularly in family law) the same authority was ascribed to the customs of different religious confessions. The destructive force of desuetude was recognized, not only as against custom but as against written law. Even legislators, in affirming the validity of older collections of written laws, sometimes added the significant limitation, "as far as these are still in use." [3]

After the close of the middle ages, a different theory prevailed. Legislation was exalted above custom: it was denied that written law could lose its force through desuetude or be displaced by contrary custom; it was even denied that custom was or could be law otherwise than by the express or implied consent of the legislator.[4] We associate these views to-day with the English analyt-

[1] *Cf.* Maitland, *op. cit.*, pp. 31, 32.

[2] Decr. Grat. dist. 4, c. 3.

[3] *E.g.*, Leyes de Toro (1505) 1.

[4] Some of the Roman jurists had already attempted to assimilate custom to enacted law by treating each as an expression of the will of the sovereign people. *Cf.* Julian, in Dig. 1, 3, fr. 32, § 1: "Nam cum ipsae leges nulla alia ex causa nos teneant, quam quod iudicio populi receptae sunt, merito et ea, quae sine ullo scripto populus probavit, tenebunt omnes; nam quid interest suffragio populus voluntatem suam declaret an rebus ipsis et factis?" *Cf.* also Hermogenian, *eod. tit.*, fr. 35; "velut tacita civium conventio." But the conclusions drawn from this doctrine of popular sovereignty were opposite to those which have been drawn in modern times from the attribution of sovereignty to the legislator. In the sentence which immediately follows that above cited, Julian says: "Quare rectissime etiam illud receptum est, ut leges non solum suffragio legislatoris, sed etiam tacito consensu omnium per desuetudinem abrogentur."

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ical jurisprudence. They are, however, much older than their English formulation; and they became dominant on the Continent long before they attained this position in English legal thought.

The development, or at least the general acceptance, of these views was closely associated with political changes which were taking place at the close of the middle ages, and with legal changes which were beginning at that period and which have been completed in our own time. On the Continent, the modern national state obtained its political organization in the absolute monarchy; the monarch was regarded as sovereign;[1] and to admit that his actions could be restrained or his commands invalidated by custom was to deny his sovereignty and make his power merely governmental.[2] Within each national state common law was needed, and on the Continent this could be developed only by legislation. The transition from feudal to democratic society required sweeping legal reforms, and these could be made only by enactments.

In some of these matters the English political and legal development was altogether different from that of the Continent; in others an analogous development took place, but not by any means an identical development. Even a brief comparison will show, I think, that while the new[3] theories were a natural product of Continental conditions, they represented in England either fruitless protest or unnecessary imitation.

In England, governmental power had been centralized three or four centuries earlier than in any other modern European state;

[1] The common impression that the reception of the law-books of Justinian contributed to the development of the theory of princely sovereignty is, of course, quite correct; for in the later imperial constitutions there are clear assertions of the divine right of the prince: terrestrial majesty is derived by delegation from celestial majesty. In Justinian's Digest sovereignty is with the people; in his Institutes the imperium et potestas of the prince are derived from the people; in his Codex the emperors claim to rule iure divino.

[2] Burgess, Political Science and Constitutional Law, I, 66, 93, 127, maintains that the authority of the absolute monarch was only governmental. He describes the absolute monarchies of Western Europe as democratic states with monarchic governments. His theory is thus identical with the juristic theory of the Roman principate.

[3] It is hardly necessary, but it is perhaps prudent, to say that the word "new" is used relatively.

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and in the period in which absolute monarchy was giving national organization to Spain and to France, the English national state was strong enough to tolerate the transfer of governmental power from the crown to the king in Parliament. In the reaction towards absolutism, however, which followed the disorders of the seventeenth century, the new theories found a classical formulation in the *Leviathan*. Hobbes declared that all law proceeded from the sovereign, and that custom was law only by his allowance.[1] He fully recognized that sovereignty might be vested in an assembly of aristocrats or in a popular assembly,[2] but he regarded monarchic sovereignty as the best organization of the state, and he asserted that in England sovereignty was in the king.[3] In England, naturally enough, his theory was not generally accepted until it was fully recognized that sovereignty was elsewhere than in the king.

A second great difference between England and the Continent, at the close of the middle ages, was that England had what no Continental state possessed, a supreme "custom of the realm," developed by the decisions of the royal courts, and continually readapted by reinterpretation to the changing needs of English social life. On the Continent, where the central governments of the single states were too weak to furnish national law, either by legislation or by a controlling central interpretation, a different development had taken place. At the close of the middle ages nearly all the Continental law was either local or European. To the ecclesiastical law, the feudal law and the law merchant, all of which were European systems, had been added, by the reception of the law-books of Justinian, the Roman civil law. The acceptance of all this common European law did not, however, solve the problem of furnishing common law to each state; for most of this European law, and notably the Roman civil law, had subsidiary force only: it was applicable only in cases for which

[1] Leviathan, ch. 26.

[2] Hobbes's secure title to fame rests on the fact that he formulated a theory of sovereignty which is applicable to every form of state, although, like all mediæval and nearly all modern thinkers, he confused state and sovereignty with government and governmental power. His great service to jurisprudence lies in the drawing of a sharp distinction between natural and positive law.

[3] *Ibid.*, ch. 18, 19, 22.

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neither provincial nor local custom nor city law supplied a rule. To get rid at once of European law and of local law — to substitute national law for European law, and to make this national law the supreme law of each country, overriding the various provincial and local laws — the modern European states were obliged to resort to legislation.

On the Continent, moreover, even before the close of the middle ages, the word custom had come to be nearly synonymous with local law. Nearly all the common European law had been reduced to written form; and although neither the Roman civil law nor the canon law had been put into purely statutory form, although the Digest and half of the Codex of Justinian and a great part of the canon law consisted of digested decisions, all this European law was regarded as enacted law. In a measure the same was true of the standard compilations of the feudal law and of the law merchant. On the other hand, the reduction of local customs to written form did not generally bring about any such change of view or of nomenclature. The customs of provinces and localities remained customs. In becoming synonymous with local custom, customary law was identified with particularism. And since the local customs had not continued to adapt themselves to the changing needs of even the smaller areas which they governed, customary law was largely identified with outgrown law.[1] Under these circumstances it is not surprising that customary law came to be regarded with hostility and contempt.

It is significant, in view of this great difference between Con-

[1] For a single example, take the report of the French royal commissioners who revised the Coutume of Normandy. (The old Coutume was a private compilation made in the fourteenth century: the revised Coutume was promulgated by Henry III in 1577.) In their procès verbal the commissioners explain that the provisions of the old Coutume were in a large measure "hors d'usage et peu ou point entendus des habitans du pays." And this was the end of a body of customary law which in the eleventh century was perhaps the most advanced in Europe; which had retained more than any other the institutions of the Frankish empire, and from which much of the English common law had been derived. Among the institutions "out of use and not understood" was the jury in its half-developed Norman form. Brunner, Quellen des normannischen Rechts, in Holtzendorff, Encyclopädie, 5 ed., p. 328. It seems to be well established that law cannot develop beyond a certain point in a limited area. It must then expand, like the law of the Roman city; or borrow, like the law of the Swiss cantons; or perish through arrest of development.

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tinental and English conditions, that Hobbes displayed no such hostility to custom as existed on the Continent, and no such prejudice against judge-made law as was later manifested by Bentham. Hobbes was obliged to insist that custom was law only by the king's tolerance, because Parliament had invoked the political custom of the realm against the attempts of the Stuarts to widen prerogative. He left, however, a wide area for the judge-made common law by declaring general customs and unwritten law to be "natural law." [1] He maintained, indeed, that the sovereign had the sole power of interpreting natural law, and that nothing that the sovereign did not recognize was law; but this power of interpretation was of course regularly exercised by the king's judges. These, he significantly declared, were not mere judges; they were more like the Roman jurisconsults.[2] It is clear, I think, that Hobbes regarded interpretation as a mode of legislation; and so far from showing any desire to restrict judicial law-finding, he maintained that the royal judges should pay less regard to precedents.[3]

On the Continent, common law (*i.e.*, national law) could be established only by legislation; for when princely government became strong enough to centralize the administration of justice, the diversities of local and class law were too great to be interpreted away. Consequently, during the past three centuries, and particularly during the nineteenth century, the Continental European states have legislated to an extent unprecedented in legal history. They have attempted to cover the whole field of legal

[1] If an unwritten law, in all the provinces of a dominion, shall be generally observed, . . . that law can be no other but a law of nature." "Civil and natural law are not different kinds, but different parts of the law: whereof one part, being written, is called civil, the other, unwritten, natural." Leviathan, ch. 26. Taking this last utterance in connection with his famous remark that natural laws are not properly laws, his attitude seems contradictory. His own theory, however, requires the conclusion that in so far as the sovereign recognizes and enforces natural law, it becomes (although still unwritten) positive law; and it is doubtless of such natural law only that he is thinking when he recognizes it as part of the law and not different in kind.

[2] *Ibid.*

[3] "No man's error becomes his own law, nor obliges him to persist in it. Neither, for the same reason, becomes it a law to other judges, though sworn to follow it." *Ibid.*

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relations with codes, and to make these codes so complete as to leave no room for the survival of the European and local systems against which they were waging war. This movement began in France with the great ordinances of Louis XIV, regulating commerce and civil and criminal procedure; and it has gone on throughout Europe till the present day.[1] It has recently been completed in Germany, and is on the eve of completion in Switzerland, where the cantons have been as autonomous as were the German territories or the mediæval provinces of France.[2]

In the midst of this process came the revolutions of the eighteenth and nineteenth centuries. The reorganization of government on a more or less popular basis was secured by legislation: in all the states of Western and Central Europe the unwritten law was replaced by written constitutions. The limitation of princely power, like its development, was attained by overriding customary law of the highest order of validity, constitutional custom; and the theory which was brought forward to justify the later movement, like that adduced in support of the earlier, was of necessity a theory of sovereignty. Hobbes's argument that a seeming grant of powers of sovereignty by the sovereign is void, "for, when he has granted all he can, if we grant back the sovereignty all is restored,"[3] was substantially reproduced in the revolutionary assertion that the rights of the people are "imprescriptible." What here concerns us is that in each case the legality of the earlier political custom was impugned, and that in consequence all customary law was in a measure discredited.

The development of the English constitution, which has been accomplished with few abrupt changes, has never required in any such degree the delegalizing and discrediting of earlier custom.

[1] *Cf.* State Statute and Common Law, POLITICAL SCIENCE QUARTERLY, III, 153 *et seq.*

[2] German imperial legislation has left considerable legislative power with the states, but not in the field of private law. It is already evident that a similar solution will be attained in Switzerland. In Spain the civil code leaves the laws of several important provinces in force, and has only subsidiary application; and in the dual monarchies of Austria-Hungary and Sweden-Norway dual legal systems exist; but in all the other states of Europe the law has been made uniform by the adoption of general codes.

[3] Leviathan, ch. 18.

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The restoration of Charles II did not restore the monarchy of William I nor even that of Henry VIII, nor did the Revolution of 1688 establish so shadowy a monarchy as that of Edward VII; but the necessary changes have been effected largely by the reinterpretation of the older constitutional custom and by the establishment of new constitutional precedents. Constitutional statutes have been passed from time to time, but much of the fundamental law has remained unwritten. It has held its own against absolutist tendencies, whether these were royalistic or democratic: Hobbes's denial of the validity of the older custom of the constitution was never generally accepted; parliamentary government is carried on to-day with the machinery and in the form of government by the crown. No such prejudice against political custom as arose in the Continental monarchies has ever existed in England, because for centuries the custom of the constitution has been identified with the limitation of governmental power and the protection of popular rights.

Continental legislation, finally, has had yet another incentive and has attained another end. The older customary law, reflecting the social conditions of the middle ages, was an unequal law. By legislation class privileges have been abolished; disabilities of birth and creed have been removed; equal law has been established. These reforms, which have at once marked and secured the transition from feudal-aristocratic society to modern democratic society, were in part accomplished by special enactments. They did not require the revision and codification of the whole law. To a large extent, however, the new rules that were required have been worked out in the great national codes of civil and criminal law and procedure. Here we have an additional reason for the Continental antipathy to customary law. To the people of the eighteenth and even to those of the nineteenth century, customary law connoted not only particularism and an inconvenient diversity of local rules, but also inequality, with privileges for the few and disabilities for the many.

Here for the first time, in considering legislation as an agency of social reform, we find an analogy between Continental and English development, and a reason for English dissatisfaction with the custom of the realm as interpreted and developed by

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the English courts. The analogy, indeed, is not complete, nor does the reason seem to amount to a justification. In England the development of class privileges had been restrained by the early centralization of law-finding: the common law was not only common to all England but to all Englishmen. The transition from feudal to democratic society began earlier in England than in any Continental kingdom,[1] and some of the necessary changes in the law were made by judicial modification of the common law, others by acts of Parliament. In the eighteenth century the English law contained less mediæval débris than the legal systems of the Continent. It contained enough, however, to make Bentham's attitude comprehensible. Rapid and sweeping reforms of the law, such as he rightly desired, could be made only by legislation. It was not necessary for the realization of his practical aims that judges should cease to find law; but it is quite intelligible that the inability of the judges to find the sort of law he wanted should have blinded him to their usefulness as law-finders, and should have led him to regard legislation as the normal mode of making law. For the rest, he and the other English utilitarians seem to have been much influenced by Continental tendencies,[2] and the analytical theory took its final form without adequate analysis of the conditions which had produced those tendencies. Not perceiving that the Continental states were codifying in order to obtain what England already possessed, a national law, they assumed that codification was the natural goal of all legal development. If we say that English analytical jurisprudence began with Hobbes and ended with Bentham and Austin, we may say that it began with a defence of royal absolutism, which England had already repudiated, and that it ended in a demand for general codification, which neither England nor any

[1] Not earlier than in the Continental cities, but earlier than in any system of territorial law upon the Continent.

[2] The ideas and tendencies which we associate with Bentham's name were dominant in Europe in the later decades of the eighteenth century. Bentham's ideal of a code which was to determine every possible legal controversy, and leave no loop-hole for the making of law by judicial decisions, was the ideal, for example, of the authors of the Prussian Code of 1794. See State Statute and Common Law, POLITICAL SCIENCE QUARTERLY, II., 108, 109, n.

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of the people that have inherited the English common law have thus far recognized as necessary.

This review of conditions and theories, and of their interworking during the past four centuries, would be incomplete without a word regarding natural-law doctrines. These ancient theories, which had little more than speculative interest in the middle ages, became of great importance in the seventeenth and eighteenth centuries. The assertions of Cicero and of Thomas Aquinas that laws contrary to natural law were not truly laws, that they were the corruption of law — these assertions became dynamic when the interpretation of natural law passed from the church and the princes to the people, *i.e.*, to any one who chose to set himself up as a natural lawyer, and whose assertions gained popular approval. The fundamental principles of the new law which was required in the transition from princely to popular government and from feudal to modern society were proclaimed as natural law in the seventeenth and eighteenth centuries; and the assertion that these principles were already law did much to hasten their acceptance. Words are forces; and to say that the particular arrangements and rules which one desires ought to be law is a much less effective mode of agitation than to say that they are law. The revolutionary natural lawyers said both: "Are and ought to be" was the natural-law formula. In this way the natural-law doctrines gave to the revolutions what seemed a legal basis; and they made the legislation in which the results of revolution were embodied seem merely declaratory.[1] But before natural law can be applied, it requires something more than declaration, it must have detailed judicial or legislative construction;[2] and the revolutionists and reformers naturally adopted the more rapid method of statutory construction. Theoretically, the natural-law school was sharply distinguished from the positivist or

[1] The declaratory form was typical. As the American Colonies had declared in 1776 that they not only ought to be but were already independent, so the first French attempt to define the fundamental rights of the individual took the form, not, as in England, of a bill but of a declaration. In the United States, where natural-law theories have survived longer than in Europe, the declaratory form has not infrequently been used in the nineteenth century.

[2] "The law of nature . . . is become of all laws the most obscure, and has consequently the greatest need of able interpreters." Leviathan, ch. 26.

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analytical school, since the latter denied that natural law was law at all. But when the English followers of Hobbes had become dissatisfied with the custom of the realm and desired legislative reforms, and the natural lawyers were hastening to transform all their natural law into positive law, the tendencies of the two schools became indistinguishable. It has been shrewdly remarked that English utilitarianism was really a natural-law system; and in fact Bentham and the natural-law writers had an equally firm faith in the power of reason (*i.e.*, their reason) to find the right solution of all social problems, and an equally poor opinion of the results of the thought and experience of antecedent generations. What especially concerns us here, however, is that the attitude of the natural lawyers and of the English utilitarians toward historical law in general and customary law in particular was practically identical. Both disliked custom and regarded it as something anomalous.

With the reaction against the revolutions came a scientific reaction against natural-law theories. The leaders in the new movement were accused, and not without ground, of being reactionaries in politics and obstructionists in the matter of social reform; but the fundamental tenets of historical jurisprudence were soon accepted by liberals and reformers — perhaps because the natural-law propaganda had substantially accomplished its ends — and the historical school became dominant. With the acceptance of the historical point of view in England there has come also a reaction against the analytical school. The historical jurists have done much to rehabilitate customary law. They maintain that custom, so far as it is observed and enforced, is really law, whether its rules agree with the views of natural lawyers or not. As against the analytical jurists they assert that much law has existed, and some law still exists, which cannot be traced to the direct or indirect command of any determinate sovereign. Nevertheless, the historical jurists do not generally attribute to custom any such constant efficiency as was apparently attributed to it by the Roman jurists. Custom, in their view, is the chief source of early law, but it plays no important part in making late or highly developed law. The dominant opinion, not merely of English but also of Continental jurists, is expressed by Pollock:

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"Except in matters outside the scope of positive law, the formation of custom belongs to an archaic stage of legal history." [1]

In considering this remark and similar utterances of other modern writers, two things are to be noted. To English and to Continental jurists alike, custom means local custom. On the Continent this is natural enough: European custom had been reduced to authoritative written form long before it was displaced by national codes, and, except in the political field, no national customs had developed. A body of what we should call judge-made law is now rapidly growing up about the new national codes, but this is not generally regarded as law: it is merely "interpretation." [2] In England, where a custom of the realm has existed for several centuries, where this custom has been only partially replaced by acts of Parliament, and where it is still developing, as it has always developed, from precedent to precedent, the restricted use of the word custom is less easily explicable. That the common law is law, and not a mere body of interpretation, is generally admitted: in declaring that the single decisions are interpretations, it is necessarily conceded that there is something substantive which is being interpreted. By some it seems to be regarded as law *sui generis* — law which is neither legislation nor custom — but the majority even of the historical jurists acquiesce in the Hobbesian and Austinian theory, that it is a sort of legislation, a body of indirect commands. In the United States and in the great self-governing British colonies which have inherited the English common law, and in which it is likewise developing by decisions, similar views prevail.

It is to be noted, in the second place, that those who describe custom as a vanishing form of law exclude or ignore public law. A few only, like Pollock, question whether public law should be regarded as positive law,[3] but many, especially in England, assert

[1] First Book of Jurisprudence, p. 265. German jurists would hardly indorse the word "archaic," but most of them would accept the word "past."

[2] In Germany, indeed, judicial usage (*Gerichtsgebrauch*, *Praxis*) is beginning to be recognized as customary law (*Gewohnheitsrecht*). The newer theories on this point will be noted later.

[3] "Law may be taken for every purpose, save that of strictly philosophical inquiry, to be the sum of the rules administered by courts of justice." Pollock and Maitland, History of English Law, Introduction, p. xxv.

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that international law at least is simply international morals. The majority of modern jurists, especially on the Continent, declare that public law, including international law, is really law; but in discussing the sources of modern law (as indeed generally in framing their systems of jurisprudence) they seem to be thinking of private law only.

If an attempt to determine the nature of customary law, and to indicate what place it occupies in the modern civilized world, were to lead us into, and leave us in, a quarrel over the meaning of the words "law" and "custom," it would be of questionable advantage to prosecute any such inquiry. If, however, it can be shown that archaic custom and modern public law, local custom, class custom and modern judge-made law, exhibit in their development and in their character similarities so great as to justify their inclusion under a single term; if it can be shown that, even at the present time and among the most highly civilized nations, many rules of conduct are taking shape without legislation, by processes analogous to those through which customary law has always been produced, and that the observance of these non-statutory rules is enforced either by the courts or by other agencies of government; and if it can be shown that as long as human society, as we know it, continues to exist, a very appreciable quantity of such rules will inevitably be produced by such processes, — if these things can be shown, the question of nomenclature becomes one of secondary importance. And even if the result of the inquiry be simply a reaffirmation of the substantial truth of the Roman view that all law is produced either by custom or by legislation, and that custom and legislation are factors of equal potency, even this result may perhaps be regarded as a contribution to legal theory.

Archaic Custom.

The resemblance between the mode in which early customary law is developed and the mode in which late unwritten law is produced has been obscured by the German historical jurists. They describe early custom as "popular usage" (*Volksgebrauch*), and the law of which it constitutes so large a par as "popular

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law" (*Volksrecht*); and they contrast this popular law, as such, with the "official law" (*ius honorarium*, *Amtsrecht*) which is imposed, at a later period, by governmental power. Both of these forms of law are further contrasted with legislation. The element of truth in these contrasts will occupy us later: what now concerns us is the sense in which early customary law is described as popular. We find that these jurists generally assume and frequently assert that such law emanates directly from the people at large. Some of them hold that it is established by the spontaneous acts and forbearances of the people. Others assert that the conduct of the people supplies only the visible manifestation of the popular law, and that this law exists, antecedent to any such manifestation, in the "jural consciousness" (*Rechtsbewusstsein*) of the people.[1]

These assumptions and assertions are, I think, untenable. Whether the so-called jural consciousness is really a spontaneous popular development is a question which we may leave to sociologists: it does not directly concern lawyers, for the simple reason that the content of this jural consciousness is not law. The jural consciousness is what we call, in English, the sense of justice or sense of equity. It is a mixture of ethical sentiment and of a more or less clear perception of social utilities, applied to matters which we regard to-day as matters of law. It may exercise a controlling influence upon the making of law; it is perhaps the source of the majority of those rules of conduct which ultimately become legal rules;[2] but it contains nothing more than law "in the making," or, as a German might express it, *werdendes Recht*. The error in the German assumption that the content of the *Rechtsbewusstsein* is law is concealed, and the assumption itself is probably caused, by the ambiguity of the word *Recht*, which (like the words *ius*, *droit*, *diritto* and *derecho*) may mean right in the abstract or a concrete legal right or law in the abstract.

[1] *Cf.* Vangerow, Pandekten, § 14. References to the German literature *ibid.*, § 13.

[2] Jhering denies the priority of the jural consciousness, and declares it to be a product of positive law. See his Entwickelungsgeschichte des römischen Rechts, Einleitung. *Cf.* POLITICAL SCIENCE QUARTERLY, XII., 32 *et seq.*

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The assertion that customary law is established by the spontaneous acts and forbearances of the people at large is more plausible. It must be remembered, however, that social habits are not necessarily legal customs; that the general observance of a rule of conduct does not make it a rule of law. The question is whether the observance of the rule is secured by any sort of penalty for non-observance, and if so, by what sort of penalty. If the violation of a rule entails ridicule or contempt, unpopularity or general detestation, and nothing more, the rule is not what we should call a legal rule. If the violation of the rule is believed to bring upon the offender divine displeasure, and if it brings nothing more, the rule is still not a legal rule. If, however, the man who has awakened the popular or divine resentment is thrust out of the community or sacrificed to the gods, we have what may be called a legal sanction. In general, if the violation of a rule entails a penalty which affects the person or the property of the offender, if the violator is fined or flogged or mutilated or slain or enslaved or banished, then we may say that a really legal sanction stands behind the rule and that the rule is undoubtedly legal.

The beginnings of law in the proper sense are, therefore, to be found at the point at which the infliction of penalties affecting the property or the person begins to be assured; and if it be affirmed that any rule of early law is really popular in its origin, it must be shown that the people at large, and not a priest or a king, inflicts or secures the infliction of the penalty which is attached to the violation of the rule; for if it be a priest or king who takes the initiative, it is probable that the sanction which makes the rule a legal rule proceeded originally from the priesthood or the kingship. And if we wish to go to the bottom of the question, we must further inquire, even when we find the people inflicting penalty or securing its infliction, whether the popular action is spontaneous or results from obedience to a priest or a king; for in the latter case it is the priest or king who is really making a precedent and shaping the customary law of the community.

In early criminal law there is much evidence of what seems to be spontaneous popular action. Some offences are so clearly in-

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jurious to the whole community that they awaken a spontaneous popular reaction, and the offender is lynched or expelled from clan and tribe. We commonly find, however, that it is the priests who declare whether this rough justice is pleasing to the gods. We find also that popular justice is limited to a small class of offences. In a larger number of instances, priests or kings inflict penalty or secure its infliction.

In early society, the range of criminal law is comparatively limited. Many acts which are regarded later as offences against the peace and welfare of the community are viewed as private wrongs simply; and those wrongs are redressed by self-help, *i.e.*, by the act of the injured person or kinship-group. An attack upon the person, physical or moral, justifies not only self-defence but counter-attack. Wounding justifies retaliation; insult, revenge. When a man is slain, it is the right and duty of his kinsfolk to exact blood-vengeance. Similarly, an attack upon possession justifies not only defensive but aggressive action; the person who has been robbed of wife or child or cow may summon his kinsmen and try to recover the stolen property, with something to boot by way of retaliation. In all these cases self-defence may be carried to the point of slaying the assailant. Recovery and retaliation may always reach that point, if the offender resist.

If, however, the offender and his kinsfolk are permitted to exercise counter-retaliation; if, in particular, the kinsmen of a slain murderer or thief are permitted by the community to take vengeance for his blood — and there is evidence, particularly in early German history, that this was at one time permitted — the so-called right of self-help is no right at all, nor is self-help a legal sanction. To slay a man at the risk of a blood-feud was in the power of every member of a primitive community, whether the slayer had suffered prior wrong or not, just as it is in the power of every man to-day to slay his fellow, with or without provocation, if he is willing to take the consequences. There was no true right of self-help until the community began to protect its exercise by defending the persons who exercised it. This meant the intervention of other and neutral kinship-groups to restrain the kinsmen of the original offender from seeking vengeance for his death. Now, in the history of every tribal community there was, of

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course, an occasion on which such an intervention first took place; and because it was unprecedented, it is hardly likely that it was spontaneous and irreflective. It may well have occurred at the exhortation of a tribal priest or chieftain. If it did occur spontaneously, as the result of a slowly ripened popular sense of justice or of expediency, there must have been no little discussion afterward, among the leading men of the tribe, of the question whether the intervention was a good thing. Only by virtue of a general agreement on this point could the action of the neutral groups come to be regarded as a precedent for tribal intervention in future cases of like character; and only when the intervention had become a regular practice could the legal rule take form that the slain offender is rightfully slain, and that no vengeance or compensation is to be exacted for his blood.[1] In general, it may be affirmed that the whole system of the redress of wrongs by self-help implies the protection by the community of the person or group entitled to exercise self-help; that until such protection is given there is not properly any right of self-help; that every rule of tribal custom which recognizes the right of self-help represents a long series of precedents; and that in the making and interpreting of these precedents there was no little expenditure of the best thought of those whose position, character, and intelligence made them the natural leaders of the community.

If, again, we consider early forms of legal acts — *e.g.*, forms of conveyance and of contract — which date from the same primitive period of self-help, and which constitute another great branch of early customary law, we are struck with the evidence of reflective construction which they bear on their very face. At a time when only such rights as were perfectly clear were at all likely to receive recognition and effective protection, these forms aimed to make rights clear, not only by calling in witnesses but also by giving to these witnesses visible as well as verbal demonstration of the nature and content of the act. Hence, the constant use of symbols. These symbols were apparently connected, in many cases, with ancient superstitions; but the pe-

[1] XII Tables, viii, 12: "jure caesus." In the Anglo-Saxon laws, the slain offender is to lie "ungylde;" in the Frankish laws "absque compositione." *Cf.* Brunner, Deutsche Rechtsgeschichte, I, 157, 158.

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culiarly expressive symbols which we find, for example, in early Roman and in early German law, give ample evidence of a reflective selection and adaptation.

Through forms of conveyance and contract and through the development of remedial law, not a little substantive law took shape even in the period of self-help. In many instances we find traces of innovations and of ingenious adaptations of old customs to new uses — innovations and adaptations which could hardly have been made in the jural consciousness. Take, for example, in family law, the transition from mother-right and uterine kinship to father-right and agnatic kinship, consider the later restrictions placed upon the power of the husband who has bought and owns his wife — restrictions by which an unlimited property right became a limited power over a free person. Take, in property law, the extension of the right of following and punishing a thief until it became a process for recovering things even where no theft could be shown (*furtum nec manifestum*, *Anefang*), with the resultant development, in German law, of the conception of seizin, and, in Roman law, of the idea of ownership. Take self-pledge, which, as a form of obligation, appears very early and seems very natural, and consider what it implies. It means that title to a thing can be held without holding possession, and that this possibility has been utilized first to create mortgage, and then to create obligation through mortgage of the promisor's person.[1] These are but a few of the illustrations that may be drawn from archaic custom, and that lead us to doubt its spontaneous popular development.

Early usage, like all usage, is simply persistence in lines of conduct marked out by the practice of the past: it is the observance of precedents. Customary law, however, is a narrower thing: it is the observance of legal precedents created by decision of controversies.[2] If the observance of a social practice has been and is absolutely uniform and uninterrupted, if no living man remem-

[1] Nexum in the oldest Roman law was clearly a fiducia of the debtor's person.

[2] The fact of jurisdiction, in a limited class of cases where vital interests of the community are involved, is much older than the attribution of a right of jurisdiction to any determinate authority; and decisions were made long before there were courts.

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bers or has heard of any violation of the usage, and if there is no tradition as to the results which should attach to its violation, the rule by which the community is living is not a legal custom. It may be a rule of conduct of the highest importance, but it is not law. It cannot become law until it has been violated. Then for the first time the community is forced to decide whether the breach of usage shall be punished by any sort of physical coercion, or, if it has already been punished, whether the person or persons who have inflicted the punishment are to be punished in turn or protected. This decision is a legal precedent: it takes the broken rule out of the debatable domain of usage, and assigns it either to the domain of morals or to that of law.[1] If the first decision is followed in later controversies, a legal rule is established.

The earliest customary law is thus the observance of legal precedents; and these precedents, as in modern law, are established by decisions. These decisions, multitudes of which must have been made before right of jurisdiction over controversies had been vested in any single persons or bodies of persons, were, in a sense, decisions of the whole community; but they were really made by those persons whose position or age and familiarity with the customary law commanded deference if not obedience. The community as a whole might approve or reject a decision proposed, but the initiative, the formulation of the decision, rested with a few natural leaders of the community; usually, it would seem, with the priests. Whether the decision first reached on a novel question should determine the attitude of the community in future controversies, depended again mainly on the attitude of these earliest law-finders; and as concordant decisions hardened into customary law, it was not popular custom but the custom of the law-finders that made the law. All that the people contributed was the custom of acquiescence. The expression, in clear and memorable sayings, of the rules implied in the decisions — an achievement which to primitive men seemed a real law-

[1] That the rule found is regarded as having always existed is a fiction which the English and American courts maintain in all their law-finding to the present day. In early society it is a very natural view, for the usage existed before it was found to be a legal custom.

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making, and which perhaps first cleared the way for legislation — this was again the work of these leaders of progress and breakers of new paths.

Savigny, who is chiefly responsible for the rather mystical theory of the really popular development of early custom, has taught us that, as soon as social relations become at all complex, a select body of lawyers appears and takes the development of the law out of the hands of the people. In fact, however, we have yet to discover, in history or in the uncivilized world of to-day, a community possessing anything that can fairly be called law, even in its rudest form, without discovering at the same time traces of a select few who both make and interpret the precedents which constitute the law. The popular traditions, found almost everywhere, which base the ancient customs of the people on the decrees of some great law-giver, probably contain more truth than the historical jurists are wont to admit. Romulus and Numa may never have existed, Moses may have been in no greater degree the author of the Jewish law than Alfred was the maker of Saxon or Rollo of Norman customs; but these and other legendary law-givers may be regarded as composite mythographs, each representing a long series of forgotten law-finders.

German Tribal Law and Roman City Law.

When we pass from the period of unorganized law-finding to the period in which jurisdiction is vested in determinate authorities, *i.e.*, in courts, we find that the customary law consists of the rules recognized in these courts. We find, also, that the progressive reformulation of these rules in judgments is the work of a few men who are especially familiar with the legal traditions of the community, which are the residuum of forgotten precedents, and with the comparatively recent precedents of which a distinct memory still survives.

The old German court was indeed a popular court: it was attended by all the freemen, and its judgments were not valid without their approval. The judgments, however, were actually found by one or more "wise men" or "advisers" or "law-speakers." Their "wisdom" or declaration of the law seems to have been

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regarded as authoritative: among many tribes "wisdom" means law.[1] Among some tribes the judgment, as formulated by these judgment-finders, was submitted to the people for approval by the king or prince who presided over the court; among other tribes it was submitted by the law-finders themselves at the request of the presiding king or prince, or on the demand of the plaintiff. The ordinary freemen who stood around (the *Umstand*)[2] simply approved the proposed judgment: they gave the "full word" (*Vollwort*).[3]

In early Roman history there is no trace of any such popular court, except as an appellate court in criminal cases; and Roman tradition ascribed the creation of this appellate popular jurisdiction to King Tullus Hostilius. The ordinary criminal court at Rome was apparently the court of the king himself, or of magistrates appointed by him; and the judgment was rendered by the king or the magistrates without any popular co-operation. Of the Roman civil courts in the royal period we know next to nothing: there are traditions of a royal administration of justice, and there are evidences of pontifical jurisdiction. The typical civil court of the Roman Republic was a composite affair: pleadings took place before a magistrate, but the case was sent for decision to one or more *iudices*. These *iudices* represented a popular, *i.e.*, a non-governmental, element. The single *iudex* was a referee selected, or at least accepted, by the litigants; the boards of *iudices* were annually elected by the people. They were not necessarily learned in the law, and when they were confronted with legal questions of any difficulty they were guided by the opinions of jurists. In the Roman jurists of the Republican period we have something corresponding to the German law-speakers, but in a higher stage of development. The jurists of the royal and early republican periods were the pontifices. In the later Republic the jurists were laymen, and their authority, which was extra-legal,

[1] So in the Old High German, the Gothic, and the Old Saxon. *Cf.* Brunner, Deutsche Rechtsgeschichte, I, 110.

[2] The law-finders, like the presiding official, were seated. If there were several, they sat on a bench.

[3] Termed, by Tacitus, auctoritas. The previous formulation of the judgment is indicated by the word consilium. *Cf.* Brunner, *op. cit.*, I, 154.

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rested on popular recognition of their learning and acumen. This popular recognition, however, was of course based in each case on the opinion of the juristic class itself.[1] That these jurists really controlled the decision of the unlearned *iudices* on all legal questions cannot be doubted. They also, and they alone, kept record of the precedents established, and determined their authority. A decision which was generally regarded by them as unsound was promptly overruled. Only the opinions which they approved (*sententiae receptae*) possessed legal authority. These jurists also devised forms of legal acts, and through their control of judgments they secured the recognition of the forms which they had devised. That they were actually the makers of the old Roman civil law was fully recognized by their successors, the imperial jurists. That they exercised this law-making power, however, only through their indirect control over decisions is self-evident.

The earliest compilations of Roman and of Teutonic customary law — the Twelve Tables, the Leges of the different German tribes, and the Dooms of the Anglo-Saxons — are statements of the legal tradition established by decisions. In the Twelve Tables — which, although a thousand years older than the German Leges, represent appreciably later law — the digesting of decisions into rules has gone so far that the abstract, imperative form of statement predominates; but even in the Twelve Tables we find many rules stated in the conditional form which is proper to case-law. We find a conditional clause setting forth facts, and a concluding clause laying down the rule.[2] In the German Leges the casuistic, conditional form is much more general. Some of the Leges are little more than collections of "wisdoms," *i.e.*, of answers given to specific questions by the regular law-finders. In the composition of these Leges we find king, wise men and people playing precisely the same parts as in an ordinary judgment: the

[1] Their position in the community was very different from that of modern lawyers, because they did not plead cases (this was left to the orators), and because they gave legal advice gratuitously. In a sense, they were paid by the community at large, for their services recommended them to political office.

[2] *E.g.*, viii, 12: "If he has committed theft by night, and if he has slain him, let him be (regarded as) rightfully slain;" and viii, 24: "If he has let the javelin slip from his hand rather than hurled it, let him supply a ram (for sacrifice)."

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wise men stated the law at the king's request, the king submitted the statement to the people, and the people gave their "full word," or approval.[1]

This means, of course, that the imperfect differentiation of law-finding and law-making, which we have noted in archaic custom, persists even when law has emerged from its primitive stage. The Latin *ius* like the Spanish *fuero* designates both the court and the law. Among the Germans, as we have seen, a law, like a proposal of judgment, is a "wisdom." In the Anglo-Saxon, both are "dooms." There is also much resemblance between the forms of judgment and those of legislation. In Teutonic legislation, as we have seen, the same persons, king, advisers, and people, act in the same way as in rendering judgments.[2] In the Roman popular assembly, acting as a criminal court, we find, conversely, that the machinery and procedure of legislation were employed to secure the condemnation or acquittal of the person charged with crime. The Teutonic relation between the two is probably the more primitive. Probably there were judgments before there was legislation, and the earliest legislation which was not purely declaratory was essentially a judgment rendered in advance on a question which seemed likely to arise frequently in the future. In early popular legislation another idea is indeed discernible, the idea of compact or agreement.[3] It is, however, not improbable that the same idea underlies the earliest termination of controversies by judgments.

Before going further, two questions should be answered. First, in what sense is such early law as we have been examining popular? The adjective may be used in two senses. It may be used to indicate that the law really proceeded from the people as such, or to indicate that the agencies which produced it were

[1] Brunner, Deutsche Rechtsgeschichte, I, 110.

[2] In the old High German glosses, "eosago" (law-speaker) is sometimes translated "legislator" and sometimes "iudex." Brunner, *op. cit.*, I, 150, n. 33. The scabini of the Carolingian period were also described as "legum latores." *Ibid.*, II., 224.

[3] Some of the German Leges are described as "pacts;" others begin "it is agreed." The Roman jurists always based the force of law on the consent of the people; and the Roman form of legislation, like the old German, was contractual; the king or magistrate proposed, the people assented.

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popular as distinguished from governmental. Early legislation, among both the Romans and the Germans, involved indeed the co-operation of the people, but the only direct influence which the people could exercise was negative. They had no initiative, no power of amendment; they had simply to say yes or no. They could prevent legislation, but they could not frame it or directly influence its framing. As regards the far more important mass of law which was established and developed by judgments, the German people played the same negative part as in legislation; while the Roman people, except in criminal procedure, played no part at all. Neither the written nor the unwritten law, then, proceeded from the people as such. When, however, we inquire whether the agencies that really produced the law were or were not governmental, we must distinguish. In legislation the initiative was, in form at least, governmental; and except in declaratory legislation it was apparently in fact governmental, even among the Germans. Among both peoples, however, the formulation of judgment, as far as any question of law was involved, was non-governmental. The real makers of early German law as of early Roman law, as far as these systems were developed by judgments, were the experts, the wise men, the jurists; and these were not governmental agents. The term popular, in the sense of non-governmental, may therefore be, applied both to the legal customs of our Teutonic ancestors and to the unwritten law of the Roman Republic.

The second question is whether this early law which we have been examining, in so far as it was developed not by legislation but by judgments, can fairly be termed customary. It is generally recognized that the law set forth in the Twelve Tables, like that embodied in the German Leges, was of this character; but the law that was developed at Rome between the publication of the Tables and the reform of the civil law by the prætors is not usually described as customary law. In the Roman official theory, indeed, all the jurist-law of the republican period was merely interpretation of the Tables. This theory was strained nearly to the breaking point, as similar theories have often been strained in later times; but it was persistently maintained until the imperial period.

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Postponing for the present the general question of the relation of interpretation to law-making, we need only observe that in Rome, before the close of the republican period, the civil law had attained dimensions very disproportionate to the basis on which it nominally rested; that this development had been accomplished by the responses or decisions of the jurists; that no single response or decision was regarded as law, except as it was received as correct by the general opinion of the profession and was followed in actual judgments. It was, then, by the custom of the law-finders that the Roman civil law was built up, just as Teutonic custom was built up centuries later; and it is not easy to see why the one system should be termed customary law while the appellation is withheld from the other.

MUNROE SMITH.

(*To be continued.*)

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THE RESULTS OF RECIPROCITY WITH BRAZIL.

IN view of the growing agitation for tariff reform and the ever increasing incidental discussion of the advantages and disadvantages of the policy of reciprocity, it may not be amiss to call attention once more to some of the features of the experience of the United States in the years 1891 to 1895, when a certain sort of reciprocity was in force. The subject has been a bone of contention for a number of years. The long agitation for the adoption of the policy, its almost accidental insertion in the Tariff Act of 1890, the extravagant claims of advantage to be derived from it, the somewhat dramatic relinquishment of the system with the passage of the Wilson Bill in 1894, served to bring it to the forefront of political and economic discussion during the second administration of President Cleveland. Then, with the growing importance of the free-silver question, and, later, of the great issues arising out of the Spanish War, it suffered temporary eclipse; but during the last two or three years it has forced itself once more into prominence as a political issue.

There has never, so far as the present writer knows, been any attempt at an exhaustive analysis of the results of our experiment in 1891–95.[1] Much has been written in a general way as to the advantages and disadvantages of reciprocity as a means of extending foreign trade, but the value of a direct examination of the specific results which flowed from the practical application of the scheme seems to have been allowed to drop out of mind. And yet here is a case in which statistical science, if it has any vitality, ought surely to be able to analyze the points at issue and to arrive at conclusions which shall be of value both to the practical man of affairs and to the theorist who is trying to form a scientific opinion as to the influence of tariff legislation.

[1] The House Committee on Ways and Means made an investigation, but the majority and minority reports were both mere party campaign documents, with little scientific value. House Reports, vol. x; 54th Congress, 1st session.

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The period during which our reciprocal engagements were in force was a very short one, it is true, and this fact has been considered by some as a valid ground for the opinion that nothing could be gained by a study of the experiment. Three or four years, it is said, is too short a time for new commercial forces to get themselves so adjusted as to make their results clearly recognizable. In most cases, probably, this would be true, but the instance before us is in several ways unique. The policy brought about definite and very considerable reductions by a group of similarly situated countries, of their tariffs on certain articles imported from the United States; these articles included the most important goods bought by those countries from the United States; the concessions went into effect abruptly and terminated with equal suddenness. Even the fact that the period was short simplifies the problem in some respects, for it makes easier the examination of possible complicating and counteracting forces. Moreover, the shortness of the period goes a long way toward the removal of one great objection which lies against all statistical investigations — the inaccuracies of the statistics themselves. In so brief a time important changes in the methods of accounting, of gathering data, of compilation of facts, *etc.*, are far less likely to come in as disturbing elements in the problem, and with care in avoiding the danger of absolute figures by reducing the statistics to percentages and by emphasizing the importance of the relation of one set of data to another, both gathered in essentially the same manner, this source of error may be almost entirely eliminated.

Under these circumstances it is the belief of the present writer that certain very definite and possibly valuable results may be obtained by a critical statistical examination of the reciprocity period from 1891 to 1895.

Section three of the Tariff Act of 1890 provides as follows:

> Whenever, and so often as the President shall be satisfied that the government of any country producing and exporting sugars, molasses, coffee, tea, hides, raw and uncured, or any such articles, imposes duties or other exactions upon the agricultural or other products of the United States, which in view of the free introduction of such sugar, molasses, coffee, tea, and hides into the United States he may deem

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to be reciprocally unequal and unjust, he shall have the power and it shall be his duty to suspend, by proclamation to that effect, the provisions of this act relating to the free introduction of such sugar, molasses, coffee, tea, and hides, the production of such country, for such time as he shall deem just. . . .

In case of such suspension, specified rates of duty were to be levied upon the articles named when imported from countries refusing to make the desired concessions.

In pursuance of this authorization, reciprocal agreements were entered into with the following American countries: Brazil, San Domingo, Cuba and Porto Rico, Salvador, the British West Indies and British Guiana, Nicaragua, Guatemala and Honduras. These agreements were proclaimed in the order given above, the first being that with Brazil (April 1, 1891) and the last that with Honduras (May 25, 1892). Similar arrangements were made with Germany and Austria-Hungary, but these two countries lie without the scope of our present inquiry; and also with Costa Rica and France, though in these last two cases the agreement was never proclaimed. The governments of Colombia, Haiti and Venezuela refused to make the desired concessions and the United States accordingly imposed the specified discriminating duties upon their products.

By the reciprocity agreements the countries mentioned made discriminating rates in favor of the United States, reducing their tariffs on a number of the most important articles exported by us to them. The United States, in return, made no reductions on goods imported from the contracting countries; she merely agreed not to impose discriminating duties against them. In other words, this "reciprocity" was not truly reciprocal; in plain language it meant simply the obtaining of concessions by threats of tariff discrimination.

The concessions made by the various countries differed somewhat, yet in the main they were alike. We may take the reductions made by Brazil as typical. A considerable number of articles which paid customs or port duties amounting to from five to forty-eight per cent ad valorem, were to be admitted free when imported from the United States. The most important item among these was breadstuffs, the tariff on most of them being

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reduced from fifteen per cent to nothing. Upon another somewhat shorter list the duty on imports from the United States was to be twenty-five per cent less than on imports from other countries, the most important items being provisions (other than breadstuffs), iron and steel and manufactures thereof, and cotton manufactures (the old rate on all these ranging from fifteen to forty-eight per cent). As the exports to the reciprocity countries of the articles included in these two lists aggregated from fifty to seventy-five per cent of our total exports to the same countries, it will be seen that the reductions constituted a very great concession to the United States.

Setting aside the ethical and political questions involved in thus forcing concessions upon countries with which we were at amity, it would seem at first glance that the policy must be a wise and effective one. Such concessions, it would seem, must result in a rapid and lucrative expansion of our Spanish-American export trade; and this was the claim put forward untiringly by the advocates of the scheme. It is to be our task to examine the results and see to what extent their predictions were fulfilled.

A full examination of the effects of reciprocity would involve the consideration of all the countries with which reciprocity agreements were put in force, and at some future time the writer hopes to undertake such an investigation. But at present it has seemed best to take a narrower field, and for that purpose a single country has been chosen. Brazil has been selected for two reasons: First, it is one of the most important countries with which we made reciprocity agreements; and second, the operation of the agreement was longer continued in this case than in any other, going into effect on April 1, 1891, and continuing until the reimposition of the old Brazilian tariff rates on January 1, 1895. It might be objected here that the period we are considering covers the time of the great Brazilian financial crisis of 1893 and our own crisis of the same year, which was an important disturbing element in all trade relations and is therefore likely to vitiate our conclusions. But in reply it may be said that by the method we are to employ, of avoiding absolute figures so far as possible and fixing our attention on *relative* increase or decrease, this danger is almost eliminated. The crisis in Brazil affected her commerce

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with all countries, presumably in nearly equal degree, and by making constant comparison of our own experience in Brazilian trade with that of other countries, we reduce the possibility of error to a minimum.

In order to make our investigation complete it will be necessary to answer two sets of questions:

I. In regard to the United States and Brazil.

1. Did we sell a larger proportion of goods to Brazil during the reciprocity period than before and after? To answer this we must examine the ratio which our exports to Brazil bore to our total exports to all countries.

2. Were our sales to Brazil of the specific commodities upon which tariff reductions were made, affected in a more marked degree than our sales of other commodities? Our answer must be found by determining (*a*) what proportion of our total sales of the reciprocity articles went to Brazil, and (*b*) what proportion of Brazil's total purchases from the United States was made up of the reciprocity articles.

The answer to the above questions alone would, however, give us only a one-sided view of the trade relations between the two countries. Only by determining whether or not the experience of the United States in her dealings with Brazil was paralleled in the case of other leading commercial countries, can we reduce our picture to the proper proportions. Our investigation must, therefore, go deeper and include an examination of

II. The relation between our Brazilian trade and that of other nations. To fulfill this condition we must ask:

3. Whether we sent to Brazil a larger proportion of our total exports than did other countries;

4. Whether we sent to Brazil a larger proportion of the reciprocity articles than did other countries; and

5. Whether Brazil purchased from the United States a larger share of the reciprocity articles than she did from other countries. This question naturally subdivides itself into the two following: (*a*) did Brazil's purchases of the reciprocity articles from the leading commercial nations increase more rapidly than her total purchases from the same countries? and (*b*) did Brazil's purchases of the reciprocity articles from the United States increase more

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rapidly than her total purchases of the same articles from all countries together?

We shall discuss these questions in the order stated.

1. *Proportion of Total Exports Sent to Brazil.*

What proportion of our total exports went to Brazil, before, during and after the reciprocity period? The figures are as follows, the values being given in millions of dollars:

TABLE I.

	Exports to all Countries.	Exports to Brazil.	Percentage to Brazil.		Exports to all Countries.	Exports to Brazil.	Percentage to Brazil.
1885	726	7.3	1.01	1893	831	12.3	1.48
1886	665	6.5	0.98	1894	869	13.8	1.59
1887	703	8.1	1.15	1895	793	15.1	1.90
1888	683	7.1	1.04	1896	863	14.2	1.65
1889	730	9.3	1.29	1897	1032	12.4	1.20
1890	845	11.9	1.41	1898	1210	13.3	1.09
1891	872	14.1	1.62	1899	1204	12.2	1.01
1892	1015	14.2	1.39	1900	1371	11.6	0.85

During the reciprocity period, 1891 to 1895, our total exports to all countries showed a decrease of 6.2 per cent (from $845,000,000 in 1890 to $793,000,000 in 1895 [1]), while our exports to Brazil increased 26.9 per cent (from $11,900,000 in 1890 to $15,100,000 in 1895). The period was therefore one of relative increase of our sales to Brazil. But was this increase due to reciprocity? If we examine the whole period from 1885 to 1895, we see some possible reasons for refusing to attribute the development to that cause. The entire ten years show a general upward tendency, and the rise was almost as rapid before the reduction of Brazilian tariffs as during the period of concessions. On the other hand there was a rapid fall after 1895, which seems at first glance to

[1] In estimating the percentage of increase, 1890 is compared with 1895 because the former is the last whole year before the reciprocity period which was entirely unaffected by the Brazilian tariff reductions (the reciprocity agreement going into effect on April 1, 1891, while the fiscal year, 1891, ended on June 30th), and the latter was the last year affected by such reductions (the old rates being restored on January 1, 1895).

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find its natural explanation in the re-establishment of the Brazilian tariff barriers.[1] We are not, however, justified in concluding that the changes were due to the alterations in the Brazilian tariff unless it can be shown that the rise and fall were more marked in the case of the specific articles on which reduced rates were levied than in the case of other commodities. It is very possible that this relatively prosperous condition of Brazilian trade was due to a greatly increased demand for commodities in regard to which Brazil had made no concessions whatever. It will therefore be necessary to consider our second question.

2 *a. Proportion of Reciprocity Articles Exported to Brazil.*

Did our exports to Brazil of the commodities affected by reciprocity increase more rapidly than our exports of the same commodities to other countries?

The four principal groups of articles affected by the reciprocity agreements were: 1. Breadstuffs; 2. Provisions; 3. Iron and steel and manufactures thereof; 4. Cotton manufactures.

Referring to Table II (p. 304), we gather the following comparisons:

EXPORTS FROM THE UNITED STATES.

Average increase (+) or decrease (—) per annum, in percentages.

	BREADSTUFFS.		PROVISIONS.		IRON AND STEEL AND MFS. THEREOF.		COTTON MANUFACTURES.	
	To all Countries.	To Brazil.	To all Countries.	To Brazil.	To all Countries.	To Brazil.	To all Countries.	To Brazil.
1885 to 1890	— 0.68	+ 8.03	+ 4.67	+ 17.08	+ 8.97	+ 9.04	— 3.26	= 9.28
1890 to 1895	— 5.86	— 11.60	— 0.41	+ 27.77	+ 4.66	+ 25.45	+ 6.65	+ 15.97
1895 to 1900	+ 18.05	— 0.75	+ 6.66	— 17.85	+ 30.67	— 7.96	+ 11.69	— 23.85

[1] Our total exports increased 72.9 per cent from 1895 to 1900 while our exports to Brazil decreased 23.2 per cent in the same years.

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The years preceding reciprocity are a period of greater proportionate exports of all four of these classes of commodities to Brazil than to other countries. Indeed, as regards both breadstuffs and cotton manufactures, we find a decline in total exports during this period side by side with a rapid increase of exports to Brazil. During the second period, the reciprocity years, the same condition of affairs continued to prevail in regard to provisions, iron and steel, and cotton manufactures, the relative increase of sales to Brazil being much more marked than the increase in total exports. There was a slight decline in our total exports of provisions, while our exports of the same goods to Brazil were increasing more than twenty-seven per cent per annum. Sales of cotton manufactures to Brazil increased nearly two and one-half times as fast as our sales to all countries. During the same period our exports of iron and steel and manufactures thereof to Brazil were increasing nearly five and one-half times as fast as our sales to all countries. Breadstuffs, on the other hand, show a decline both in total exports and in exports to Brazil, the decline in the latter case being nearly twice as fast, however, as in the former. For the years following the reciprocity period we find an almost complete reversal of this state of affairs. Breadstuffs show a rapid increase in total sales to all countries, while sales to Brazil remain almost stationary. Our total exports of the other three groups of articles increase in the same period (the improvement being most marked in regard to iron and steel) while our exports to Brazil show a very rapid decline.

We may therefore draw the following conclusions from these various facts and figures: 1. In the case of breadstuffs not only was there no increase during the period of reciprocity, but the increase which had begun before that period was converted into a decrease. The decline was undoubtedly due to the competition of Argentine breadstuffs,[1] and it is very possible that the reci-

[1] IMPORTS INTO BRAZIL FROM ARGENTINE.

	WHEAT IN KILOS.	WHEAT FLOUR IN KILOS.
1889	4,210,000	678,000
1890	91,604,000	6,016,000
1891	103,681,000	2,119,000
1892	113,226,000	10,362,000
1893	232,774,000	24,453,000
1894	475,113,000	32,582,000

Report of Committee on Ways and Means, 54th Congress, 1st session, p 59.

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procity agreement operated to retard the movement somewhat. 2. In the case of the other three groups of commodities, the reciprocity years were a period of marked increase, while the following years show a rapid decline. We shall find these conclusions emphasized by our answer to the next question which we have set before ourselves.

We have seen that our total export trade with Brazil was in a relatively prosperous condition during the reciprocity years, and that our trade in the most important reciprocity articles, except breadstuffs, showed like tendencies, but it still remains to be settled whether or not the prosperity of the latter manifested itself *pari passu* with the former. It is possible that the improvement in our sales of the reciprocity articles was merely a part of the general improvement which was taking place in our trade with Brazil, due to causes quite apart from the reciprocity agreement. Whether this was the case or not, is now to be determined.

2 *b. Ratio of Reciprocity Articles to Total Exports from United States to Brazil.*

The following list includes all the articles of any importance affected by the reciprocity agreement: Lumber and timber, cotton-seed oil, passenger and freight cars, and the parts thereof, rosin, turpentine, breadstuffs, provisions, iron and steel and manufactures thereof, and cotton manufactures. The ratio of our total exports of these commodities to Brazil to our total exports of all articles to that country are shown in Table III (p. 305). Before reciprocity there was no increase — in fact there was a slight decline (from 73.4 per cent in 1885 to 73.2 per cent in 1890); during reciprocity a rise (from 73.2 per cent in 1890 to 80.5 per cent in 1895); and then a decline (from 80.5 per cent to 76.5 per cent).

Examining the four most important groups of commodities separately, we shall find parallel fluctuations except in the case of breadstuffs. The figures are given in Table IV (p. 306), and if we analyze the facts there set forth we get the following comparisons:

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IMPORTS INTO BRAZIL FROM THE UNITED STATES.

Average rate of increase (+) or decrease (−) per annum, in percentages.

	TOTAL.	BREADSTUFFS.	PROVISIONS.	IRON AND STEEL.	COTTONS.
1885–1890	+ 10.26	+ 8.03	+ 17.08	+ 9.04	+ 9.28
1890–1895	+ 4.88	− 11.60	+ 27.77	+ 25.45	+ 15.97
1895–1900	− 5.14	− 0.75	− 17.85	− 7.96	− 23.85

Analyzing these figures we notice at once that the rates of fluctuation in our exports of the reciprocity articles to Brazil were very different from the rate of fluctuation for our total exports to the same country. The unfavorable condition of our trade in breadstuffs is clearly brought out. Prior to the reciprocity period our exports of these goods to Brazil increased only about three-quarters as fast as our total exports to that country; during the period of concessions they decreased, in spite of the fact that our total exports continued to increase; and in the following years they remained nearly stationary, though our total exports decreased with considerable rapidity. As regards the other three classes of commodities, the reciprocity period appears as an abnormally favorable one. Exports of provisions to Brazil increased over six times as fast as our total exports to the same country; of iron and steel, over five times as fast; and of cotton manufactures, more than three times as fast. On the other hand, during the years following the reimposition of the old rates, all of these commodities show a much more rapid rate of decline than our total exports to Brazil.

As a result of our investigations up to this point we are now enabled to arrive at the following conclusions: 1. That even prior to the period of reciprocity there was a relative increase in our export trade with Brazil. 2. That, except in regard to breadstuffs, this upward movement was greatly accelerated during the reciprocity period. 3. That there came a rapid decline after the abrogation of the reciprocity agreement, and 4. That the rise and fall were both most marked in regard to the important reciprocity articles.

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We must next inquire, therefore, whether the accelerated rise after 1890 was due to the effect of the reciprocity agreement, and the fall after 1895, to its abrogation, or whether they were the result of other causes.

It is conceivable that the acceleration of American export trade to Brazil during this particular period from 1891 to 1895 was due to abnormal conditions in Brazil itself, which happened to coincide with the reciprocity years, causing a relatively greater demand for just those commodities in regard to which the reciprocity agreement had been made. If the increase was due to such an abnormal demand for foreign goods in Brazil, then the exports to her from all the leading commercial countries with which she dealt should show an increase relatively to their total exports to other countries, and this increase should be quite as marked as in the case of the United States. Only if the rise and fall were more noticeable in the exports from the United States than in those from other countries can we feel at all certain that they were due to the tariff changes. To determine whether this were so or not we must turn to the remaining items of our inquiry.

3. *Comparison of the United States with other Countries as to Exports to Brazil.*

Did the United States, during the reciprocity period, sell a larger proportion of her total exports to Brazil than other countries did?

The most important of these other countries, so far as commercial dealings with Brazil are concerned, were Germany, France, and the United Kingdom, and the course of their Brazilian trade in comparison with that of the United States is set forth in Table V. We observe at once that in the case of all these countries the years from 1891 to 1895 were a period of expansion in their Brazilian trade, a greater percentage of their total exports going to Brazil during these years than during the preceding or the subsequent period, and the question resolves itself into this: Was the increase in the case of the United States more marked than in the case of the others? This question can best be answered by referring to the analysis of Table V, p. 307.

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TOTAL EXPORTS.

Average rate of increase (+) or decrease (−) per annum, in percentages.

		UNITED KINGDOM.	FRANCE.	GERMANY.	UNITED KINGDOM, FRANCE, AND GERMANY.	UNITED STATES.
1885–1890	To all countries	+ 4.38	[1]+ 4.52	+ 3.16	[1]+ 4.51	+ 3.08
	To Brazil	+ 7.21	[1]+10.84	+34.15	[1]+14.02	+10.26
1890–1895	To all countries	− 3.06	− 1.05	+ 0.10	− 1.54	− 1.26
	To Brazil	− 0.55	+ 4.12	+ 7.40	+ 2.45	+ 4.88
1895–1900	To all countries	+ 5.19	+ 3.41	+ 6.77	+ 5.10	+11.56
	To Brazil	− 3.19	−15.41	− 9.38	− 7.82	− 5.14

Comparing these average annual rates of increase or decrease, we note the following facts: 1. During the period preceding reciprocity, exports to Brazil from the leading commercial countries were increasing at a much greater annual rate than their total exports to all countries. The case of Germany is the most remarkable, her sales to Brazil expanding almost eleven times as fast as her total sales. The exports of the United States to Brazil increased about three and one-third times as fast as her total exports, that is, at a somewhat faster relative rate than is found in the case of either Great Britain or France, but at a much slower rate than in the case of Germany. If we combine the figures for Great Britain, France, and Germany, in order to get what we may call the "normal" rate of growth, we find that American export trade to Brazil was in no way abnormal, for the sales of the three first mentioned countries to Brazil, like the sales of the United States, increased more than three times as fast as their total sales. 2. During the period of reciprocity, also, the export trade of all these countries to Brazil was in a more prosperous condition than their general export trade. In every case, except that of Germany, there was an average annual decrease in total exports, and even in the case of Germany the increase was so slight as to be hardly noticeable. Exports to Brazil, however, show a very considerable annual increase except in the

[1] 3 yrs. 1887–90.

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case of Great Britain, whose exports decreased somewhat. The experience of the United States, therefore, during this period did not differ strikingly from that of the other countries, though it must be admitted that the rate of her increase in Brazilian exports compared with the decrease in total exports is a little more marked than in the other cases. 3. Following the reciprocity period comes a time when the total exports show an expansion in the case of every one of the four countries, while exports to Brazil show a shrinkage. The total exports of the United States increased more than twice as fast as those of the other three countries together, while her exports to Brazil shrank nearly as fast as theirs. In other words, the proportion of her exports going to Brazil declined considerably more rapidly than the proportion of exports of the other countries.

The only indication, therefore, that the experience of the United States during the reciprocity years was unique, lies in the fact that her exports to Brazil show a slightly greater relative rate of increase than that of the other countries, while the decline in the following years was much more noticeable than that of the others. But how was it in regard to the articles directly affected by reciprocity?

4. *Comparison of the United States with Other Countries as to Exports of Reciprocity Articles to Brazil.*

What proportion of the total exports of the reciprocity articles from France, Germany, and the United Kingdom went to Brazil, and how does it compare with the proportion from the United States?

None of these three first mentioned countries exported any appreciable quantities of either breadstuffs or provisions to Brazil; consequently our comparison here must be confined to the other two groups of articles mentioned, iron and steel and manufactures thereof, and cotton manufactures.

Taking up first iron and steel, and examining the figures given in Table VI (p. 308), we note very considerable differences in the experience of the various countries, as set forth in the following comparisons:

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EXPORTS OF IRON AND STEEL AND MANUFACTURES THEREOF.

Average rate of increase (+) or decrease (−) per annum, in percentages.

		UNITED KINGDOM.	FRANCE.	GERMANY.	U. K., FR. & GERM.	UNITED STATES.
1885–1890	To all countries	+ 7.26	[1]+ 6.83	+ 4.00	[1]+ 8.46	+ 8.97
	To Brazil	+ 8.85	[2]+ 23.92	+ 39.21	[1]+ 24.04	+ 9.04
1890–1895	To all countries	− 6.65	− 5.85	+ 0.37	− 5.70	+ 4.66
	To Brazil	− 3.86	− 4.45	+ 21.48	+ 1.28	+ 25.45
1895–1900	To all countries	+ 8.08	[2]+ 9.63	+ 11.80	[2]+ 6.72	+ 30.67
	To Brazil	− 6.60	[2]− 11.12	− 15.62	[2]− 14.22	− 7.94

Before 1890 Great Britain, France, and Germany were all of them sending an increasing proportion of these articles to Brazil, the combined figures for the three countries showing that the sales to Brazil were expanding at a rate (24.04 per cent per annum) about three times as fast as the sales to other countries (8.46 per cent per annum). American sales to Brazil, on the contrary, increased at almost exactly the same rate as her total sales (*cf.* 9.04 per cent with 8.97 per cent). We were not, therefore, getting our due share of the increased trade. During the reciprocity years, however, we note a change. Both Germany and the United States show an enormous increase in their exports to Brazil as compared with their total exports, this advantage being gained, apparently, at the expense of France and the United Kingdom, both of which countries show an annual decrease. The relative increase was, however, much faster in the case of Germany than in that of the United States. In the former case sales to Brazil increased fifty-eight times as fast as the total sales; in the latter case, about six times as fast. Following 1895 comes a decline of the Brazilian trade of all four countries, but a comparison of the rate of decline in sales to Brazil with the rate of increase of total sales shows that the falling off in the case of the United States was relatively much greater than in any other case,

[1] 3 yrs. 1887–90. [2] 3 yrs. 1895–98.

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except that of Germany.[1] In short, American trade with Brazil in iron and steel goods was in a relatively unfavorable condition prior to the reciprocity period; it was relatively favorable during the reciprocity years, though not so prosperous as Germany's; and it was more unfavorable than that of any of the other countries except Germany during the years which followed the abrogation of the agreement.

As to cotton manufactures, (see Table VII, p. 309.)

EXPORT OF COTTON MANUFACTURES.

Average rate of increase (+) or decrease (—) per annum, in percentages.

		UNITED KINGDOM.	FRANCE.	GERMANY.	UNITED KINGDOM, FRANCE, AND GERMANY.	UNITED STATES.
1885–1890	To all countries	+ 2.43	[2]+ 1.20	+ 4.91	[2]+ 1.47	— 3.26
	To Brazil	+ 3.99	[2]+ 4.56	+ 35.48	[2]+ 4.10	+ 9.28
1890–1895	To all countries	— 2.75	+ 6.81	+ 2.50	— 0.96	+ 6.65
	To Brazil	— 2.21	+10.20	+ 1.05	— 0.45	+15.97
1895–1900	To all countries	+ 2.80	[3]— 6.40	+ 6.70	[3]— 0.65	+11.69
	To Brazil	— 9.62	[3]—27.27	— 18.92	[3]— 8.47	—23.68

Prior to 1891, the exports of these goods to Brazil from each of the countries included in the table were increasing more rapidly than their exports to other countries, the relative increase being most marked, however, in the case of Germany and the United States. During the reciprocity years, except in the case of Germany, sales to Brazil either continued to increase more rapidly than the total sales (France and the United States), or, what amounts to the same thing so far as our purpose is concerned, decreased less rapidly (United Kingdom); but the relative increase was most apparent in the case of the United States. Her sales to Brazil increased nearly two and one-half times as fast as her total sales, while the exports to Brazil from the other three

[1] Total exports from the United States increased nearly five times as fast as total exports from France, Germany and the United Kingdom together; while her exports to Brazil decreased only one-half as fast as theirs.

[2] 3 yrs. 1887-90. [3] 3 yrs. 1895–98.

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countries together decreased about one-half as fast as their total exports. Following 1895, all four countries show a relative decline in Brazilian trade, but the fall is far greater in the case of the United States than in any other. Her total exports increased at the rate of nearly 11.69 per cent per annum at the same time that her sales to Brazil were falling at the rate of 23.68 per cent each year.

This examination of the proportion of the reciprocity articles going to Brazil does not, however, yield unequivocal evidence in favor of the influence of the tariff concessions to the United States. In regard to iron and steel goods, the rate of increase was, as we have seen, more rapid in the case of Germany's exports than in those of the United States, while cotton goods show a relatively greater prosperity before than during the reciprocity period. And even if these figures gave uniform evidence in favor of the United States, it would not be safe to draw conclusions from them alone; for various other causes may be thought of which might explain the relatively less favorable condition of German, French and English trade with Brazil during the reciprocity period. For instance, a great increase in the sales by Great Britain to some of her other large customers would cause an apparent relative decrease in the proportion sold to Brazil, and *vice versa*. In order to avoid such sources of error as this we must look at the trade in question from the point of view of the buying country, Brazil, as well as from that of the selling countries. We must ask ourselves not only whether the seller was sending a larger proportion of goods to Brazil than to other countries, but also whether Brazil was taking from the selling countries more of the particular goods in question than of other goods. In short, we must compare the experience of the United States with that of other countries in regard to the ratio which Brazil's purchases of the reciprocity articles bore to her total purchases from the same countries.

5 *a. Comparison of Reciprocity Articles with Total Imports into Brazil.*

For iron and steel the figures are given in Table VIII (p. 310).

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Analyzing that table, we have the following:

IMPORTS INTO BRAZIL.

Average rate of increase (+), or decrease (—) per annum, in percentages.

		From the United Kingdom.	From France.	From Germany.	From the United Kingdom, France, and Germany.	From the United States.
1885–1890	Total Imports . . .	+ 7.21	[1] + 10.84	+ 34.15	[1] + 14.02	+ 10.26
	Iron and Steel . . .	+ 8.85	[1] + 23.92	+ 39.21	[1] + 24.04	+ 9.04
1890–1895	Total Imports . . .	— 0.55	+ 4.12	+ 7.40	+ 2.45	+ 4.88
	Iron and Steel . . .	— 3.86	— 4.45	+ 21.48	+ 1.28	+ 25.45
1895–1900	Total Imports . . .	— 3.19	[2] — 9.82	— 9.38	[2] — 8.90	— 5.14
	Iron and Steel . . .	— 6.60	[2] — 11.12	— 15.62	[2] — 14.22	— 7.94

From this comparison it appears that for the years before reciprocity Brazil was taking an increasing proportion of the iron and steel sales of all these countries, except the United States. The United States, in other words, was not getting its share of the increasing business. During the reciprocity years, on the other hand, the United States got considerably more than her share. Brazil's purchases from Great Britain and France show a relative decline, and although there is a relative increase in imports from Germany, it is not so marked as in the case of the United States. Germany's export of iron and steel goods to Brazil increased a little less than three times as fast as her total exports, while the United States' exports to Brazil increased over five times as fast. These facts seem to point again towards the conclusion that Brazil's discrimination in favor of the United States did stimulate the trade between the two countries. This view is weakened somewhat, however, when we examine the period subsequent to the reimposition of the former tariff rates. All four countries show a decline in total exports of iron and steel following 1895 and a more rapid decline of their exports of the same commodities to Brazil, and the relative rate of decline of Brazilian exports from the United States (compared with the decline in total exports) is no greater than in the case of the other countries.

[1] 3yrs. 1887–90. [2] 3 yrs. 1895–98.

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As to cotton goods, the following comparisons are drawn from Table IX (p. 311):

IMPORTS INTO BRAZIL.

Average rate of increase (+) or decrease (—) per annum, in percentages.

		From the United Kingdom.	From France.	From Germany.	From the United Kingdom, France and Germany.	From the United States.
1885–1890	Total Imports .	+ 7.21	[1] + 10.84	+ 34.15	[1] + 14.02	+ 10.26
	Cottons	+ 3.99	[1] + 4.56	+ 35.48	[1] + 4.10	+ 9.28
1890–1895	Total Imports .	— 0.55	+ 4.12	+ 7.40	+ 2.45	+ 4.88
	Cottons	— 2.21	+ 10.20	+ 1.05	— 0.45	+ 15.97
1895–1900	Total Imports .	— 3.19	[2] — 9.82	— 9.38	[2] — 8.90	— 5.14
	Cottons	— 9.62	[2] — 27.27	— 18.92	[2] — 8.47	— 23.68

Analyzing, we note that prior to the reciprocity period Brazil's purchases of cotton goods from all these countries except Germany were increasing considerably less rapidly than her purchases of other commodities. In the case of Germany the rate of increase for cotton goods is almost exactly the same as that for other goods. From 1891 to 1895, on the other hand, the conditions are reversed in regard to all the countries except the United States. As to Germany, for instance, Brazil's total imports were increasing seven times as fast as her imports of cotton goods; while as to the United States, on the contrary, her purchases of cotton goods increased three times as fast as her total purchases. The condition of American trade was therefore in a marked degree more favorable than that of any other country. Following 1895, on the other hand, the relative decline of imports from the United States was much more rapid than in any other case. Brazil's imports of cotton goods from France, Germany, and the United Kingdom decreased at almost exactly the same rate as her total imports from the same countries; from the United States, on the other hand, the imports of cotton goods decreased nearly five times as fast as the total imports. We find, therefore, the conclusion even clearer than in the case of iron and steel, that the export trade from the United States to Brazil was in a distinctly

[1] 3 yrs. 1887–90. [2] 3 yrs. 1895–98.

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abnormal condition during the years which coincided with the operation of the reciprocity agreement.

Before taking the final step in our investigation, it will be well to review hastily the conclusions already reached. They are these:

1. That the total exports from the United States to Brazil were in an abnormally favorable condition during the reciprocity period. This conclusion is based on the facts (*a*) that exports to Brazil increased at a slightly more rapid rate during this period than exports to other countries; (*b*) that after 1895, the total exports to Brazil declined, while exports to other countries increased; and (*c*) that this relative increase during the reciprocity period and relative decline in the following years find no counterpart in the case of any of the three other leading countries which had dealings with Brazil.

2. That the abnormally favorable condition of the export trade to Brazil during the reciprocity period was more marked in regard to the particular articles affected by the Brazilian tariff reductions (except breadstuffs) than in regard to articles not so affected. This conclusion rests upon the following facts: (*a*) That our sales of the reciprocity articles to Brazil increased more rapidly than our exports of the same articles to other countries; (*b*) that Brazil's purchases from us of the reciprocity articles increased more rapidly than her purchases of other commodities; and (*c*) that a comparison of our own experience, in both the above respects, with that of other countries shows that in the main our gains in the Brazilian markets during the reciprocity period and our losses in the following years were greater than those of any of our principal competitors.[1]

There still remains a single matter to be considered in order to clinch the argument. Up to this point in examining the trade of Brazil we have been treating the countries with which she dealt as separate units. We must now look at them as a whole. If the relatively favorable condition of American export to Brazil from 1891 to 1895 was really the result of the reciprocity agree-

[1] The only weak point in this conclusion lies in the fact that the relative decline of iron and steel exports after 1895 was no greater in the case of the United States than in that of the other countries. See above, p. 293.

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ment, then Brazil's purchases of the reciprocity articles from the United States must show a more rapid increase during these years than her total imports of the same commodities from all countries together. Is this the case?

5 *b. Comparison of United States with Other Countries as to Imports of Reciprocity Articles into Brazil.*

Unfortunately the figures of Brazil's total imports from all countries are not available; but as France, Germany, Great Britain, and the United States furnished Brazil with almost her entire supply of the articles which we have been considering, it will give us sufficiently approximate results if we compare our own trade with that of the other three countries combined. This comparison is made in Table X (p. 312). From this table we gather the following:

IMPORTS INTO BRAZIL.

Average rate of increase (+) or decrease (—) per annum, in percentages.

		IRON AND STEEL.	COTTONS.
1887–1890	From France, Germany and the United Kingdom	+ 24.04	+ 4.10
	From the United States	+ 9.75	+ 4.49
1890–1895	From France, Germany and the United Kingdom	+ 0.76	— 0.45
	From the United States	+ 25.47	+ 15.98
1895–1898	From France, Germany and the United Kingdom	— 14.22	— 8.47
	From the United States	— 15.29	— 28.55

In regard to both iron and steel goods and cotton goods, the years from 1890 to 1895 appear abnormally favorable for the United States' exporters to Brazil. Down to 1890, Brazil's imports of iron and steel from France, Germany, and the United Kingdom were increasing nearly two and one-half times as fast as those from the United States. From 1890 to 1895, on the contrary, the former remained almost stationary while the latter increased at the rate of over twenty-five per cent per annum. After 1895 there was a general decline, but it was somewhat more rapid in the case of the United States than in case of the other coun-

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tries. As to cotton goods, the exports from the United States to Brazil before the reciprocity period a little more than held their own as compared with the exports from France, Germany and Great Britain. From 1890 to 1895, however, they very much more than held their own, increasing at the rate of nearly sixteen per cent per annum, while exports from the other three countries were declining slightly. Following 1895, the exports from all four countries to Brazil declined, but for the United States the fall was more than three times as rapid as for the other countries. In regard to both these classes of commodities, therefore, we must conclude that Brazil's purchases from the United States were distinctly in excess of their normal amount during the reciprocity period.

We have now examined the trade of the United States with Brazil from every point of view and have compared it at every step with that of other leading countries. At nearly every step we have found indications that the period from 1891 to 1895, the reciprocity years, was an abnormally favorable one to American trade. In many respects the Brazilian trade of all four of the exporting countries with which we have concerned ourselves was in a somewhat unusual condition during those years, but the stimulus to the trade of the United States was more noticeable than in any other case. The only important group of commodities in regard to which there was no improvement was breadstuffs, and the explanation of this anomaly is easily found in the effective competition of the Argentine grain fields.

Our examination has been conducted in such a way as practically to exclude the possibility that the abnormal condition of the Brazilian trade of the United States was due to any other cause than the discriminating reduction of Brazilian tariffs on American goods. It was not caused by an unusually active condition of our general export trade in the articles affected, for our exports to Brazil increased faster than our exports to other countries. It was not caused by any unusual depression in the sales to Brazil from the other leading commercial countries, for they were sending no smaller proportion of goods to Brazil during the reciprocity period than before or after. Nor was it due to the

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generally abnormal demand for the reciprocity articles which we have found to have existed in Brazil during the years from 1891 to 1895; for while a larger share of Brazil's total imports during those years did consist of the commodities in question, yet this unusual feature showed itself more noticeably in the purchases from the United States than in those from any other country.

In giving a final judgment, therefore, as to the results of Brazilian reciprocity, we are fairly forced to the admission that the policy, however unjustifiable from a political or an ethical point of view, did bring commercial advantage to the United States. It is very true that the sum total of this advantage, as measured in dollars and cents, was not great, for our total trade with Brazil was small; but the smallness in absolute amount should not be allowed to disguise the importance of the fact that the scheme was really showing the results which had been prophesied for it, and that far more noticeable gains might have followed had the policy been persevered in for a sufficient length of time.

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TABLE II.

EXPORTS OF IMPORTANT RECIPROCITY ARTICLES FROM THE UNITED STATES IN MILLIONS OF DOLLARS.

	IRON AND STEEL.			COTTONS.			BREADSTUFFS.			PROVISIONS.		
	Total.	To Brazil.	Percentage.	Total.	To Brazil.	Percentage.	Total.	To Brazil.	Percentage.	Total.	To Brazil.	Percentage.
1885	16.6	0.61	3.66	11.8	0.52	4.36	160.4	3.4	2.13	107.3	0.45	0.41
1886	15.7	0.63	3.99	14.0	0.60	4.33	125.8	2.7	2.15	90.6	0.41	0.46
1887	16.0	0.71	4.44	14.9	0.71	4.72	165.8	3.7	2.22	92.8	0.46	0.49
1888	17.8	0.68	3.82	13.0	0.67	5.12	127.2	2.8	2.21	93.1	0.44	0.47
1889	21.2	0.92	4.32	10.2	0.63	6.18	123.9	4.1	3.31	104.1	0.61	0.58
1890	25.5	0.94	3.67	10.0	0.81	8.13	154.9	5.0	3.21	136.3	0.99	0.73
1891	28.9	2.24	7.76	13.6	0.58	4.27	128.1	4.4	3.42	139.0	2.15	1.54
1892	28.8	2.18	7.91	13.2	0.75	5.66	299.4	5.2	1.74	140.4	1.17	0.83
1893	30.1	1.82	6.04	11.8	1.40	11.88	200.3	3.8	1.88	138.4	0.90	0.65
1894	29.2	1.32	4.51	14.3	1.54	10.73	166.8	3.6	2.15	145.3	2.45	1.69
1895	32.0	2.92	9.12	13.8	1.70	12.34	114.6	2.7	2.39	133.6	3.37	2.52
1896	41.2	2.09	5.07	16.8	0.99	5.89	141.4	3.5	2.48	131.6	2.54	1.93
1897	57.5	1.68	2.91	21.0	0.67	3.20	197.9	3.6	1.82	137.1	1.91	1.39
1898	70.4	1.78	2.52	17.0	0.62	3.62	333.9	4.2	1.27	167.3	1.63	0.97
1899	93.7	1.64	1.75	23.6	0.59	2.50	274.0	3.6	1.31	175.5	1.90	1.08
1900	121.9	1.93	1.58	24.0	0.44	1.83	262.7	2.6	0.99	184.5	1.26	0.68

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TABLE III.

EXPORTS TO BRAZIL FROM THE UNITED STATES.

	TOTAL EXPORTS.	EXPORTS OF ALL IMPORTANT ARTICLES AFFECTED BY RECIPROCITY AGREEMENT.	PERCENTAGE.
1885	7.3	5.4	73.4
1886	6.5	4.9	74.7
1887	8.1	6.1	75.0
1888	7.1	5.1	71.6
1889	9.3	7.0	75.8
1890	11.9	8.7	73.2
1891	14.1	11.1	78.5
1892	14.2	11.3	79.3
1893	12.3	9.3	75.6
1894	13.8	11.1	80.2
1895	15.1	12.1	80.5
1896	14.2	10.8	75.8
1897	12.4	9.3	74.6
1898	13.3	10.2	76.5

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TABLE IV.

IMPORTS INTO BRAZIL FROM THE UNITED STATES IN MILLIONS OF DOLLARS. RATIO OF IMPORTS OF IMPORTANT RECIPROCITY ARTICLES TO TOTAL IMPORTS, IN PERCENTAGES.

	TOTAL IMPORTS.	BREAD-STUFFS.	PERCENTAGE OF TOTAL.	PROVISIONS.	PERCENTAGE OF TOTAL.	IRON AND STEEL.	PERCENTAGE OF TOTAL.	COTTONS.	PERCENTAGE OF TOTAL.
1885	7.3	3.4	46.84	0.45	6.10	0.607	8.32	0.52	7.07
1886	6.5	2.7	41.65	0.41	6.37	0.629	9.61	0.60	9.29
1887	8.1	3.7	45.40	0.46	5.63	0.709	8.75	0.71	8.70
1888	7.1	2.8	39.59	0.44	6.17	0.679	9.56	0.67	9.38
1889	9.3	4.1	44.11	0.61	6.55	0.915	9.84	0.63	6.78
1890	11.9	5.0	41.78	0.99	8.34	0.938	7.88	0.81	6.83
1891	14.1	4.4	31.10	2.15	15.22	2.243	15.90	0.58	4.12
1892	14.2	5.2	36.61	1.17	8.23	2.179	15.34	0.75	5.27
1893	12.3	3.8	30.58	0.90	7.32	1.817	14.77	1.40	11.40
1894	13.8	3.6	25.96	2.45	17.77	1.317	9.54	1.54	11.15
1895	15.1	2.7	18.17	3.37	22.34	2.917	19.32	1.70	11.27
1896	14.2	3.5	24.64	2.54	17.87	2.088	14.70	0.99	6.99
1897	12.4	3.6	29.03	1.91	15.43	1.675	13.51	0.67	5.44
1898	13.3	4.2	31.88	1.63	12.24	1.773	13.33	0.62	4.63
1899	12.2	3.6	29.51	1.90	15.57	1.643	13.47	0.59	4.84
1900	11.6	2.6	22.41	1.26	10.86	1.928	16.62	0.44	3.79

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[1] TABLE V.

TOTAL EXPORTS OF ALL ARTICLES:[2] PROPORTION GOING TO BRAZIL, IN PERCENTAGES.

	United Kingdom.			France.			Germany.			United States.			United Kingdom, Germany, and France.		
	Total Exports.	Exports to Brazil.	Percentage to Brazil.	Total Exports.	Exports to Brazil.	Percentage to Brazil.	Total Exports.	Exports to Brazil.	Percentage to Brazil.	Total Exports.	Exports to Brazil.	Percentage to Brazil.	Total Exports.	Exports to Brazil.	Percentage to Brazil.
1885	1,033	25.7	2.49				700	2.9	0.42	726	7.3	1.01			
1886	1,028	29.1	2.83				732	3.7	0.50	665	6.5	0.98			
1887	1,072	28.1	2.62	848	14.4	1.69	766	3.8	0.49	703	8.1	1.15	2,686	46.3	1.72
1888	1,135	30.6	2.69	860	16.0	1.86	805	4.9	0.61	683	7.1	1.04	2,800	51.5	1.84
1889	1,203	30.1	2.50	961	19.6	2.04	781	11.7	1.50	730	9.3	1.29	2,945	61.4	2.08
1890	1,280	36.4	2.84	968	19.6	2.02	818	12.6	1.54	845	11.9	1.41	3,066	68.6	2.23
1891	1,198	40.3	3.36	946	24.2	2.55	802	13.3	1.66	872	14.1	1.62	2,946	77.8	2.64
1892	1,101	38.3	3.48	910	18.8	2.06	756	12.4	1.65	1,015	14.2	1.39	2,767	69.5	2.51
1893	1,057	37.8	3.57	865	21.8	2.52	779	14.9	1.92	831	12.3	1.48	2,701	74.5	2.75
1894	1,048	36.4	3.47	825	24.6	2.98	732	13.7	1.87	869	13.8	1.59	2,605	74.7	2.86
1895	1,096	35.4	3.23	918	24.0	2.61	822	18.0	2.20	793	15.1	1.90	2,836	77.4	2.72
1896	1,164	32.5	2.79	919	21.8	2.37	901	14.5	1.61	863	14.2	1.65	2,984	68.8	2.30
1897	1,135	26.2	2.30	961	17.6	1.83	909	12.0	1.33	1,032	12.4	1.20	3,005	55.8	1.85
1898	1,130	30.1	2.66	935	17.6	1.88	963	10.8	1.13	1,210	13.3	1.09	3,028	58.5	1.93
1899	1,280	27.2	2.12	1,107	18.4	1.66	1,048	11.2	1.06	1,204	12.2	1.01	3,435	56.8	1.65
1900	1,411	30.1	2.13	1,085	10.4	0.95	1,141	11.0	0.95	1,371	11.6	0.85	3,637	51.5	1.41

[1] The statistics given in the tables are all compiled from the following official sources:

For the United Kingdom: Annual Statement of the Trade of the United Kingdom with Foreign Countries; and the Statistical Abstract for the United Kingdom.

For France: Tableau Décennial du Commerce de la France, 1887–1896, and Tableau Général du Commerce et de la Navigation.

For Germany: Statistisches Jahrbuch für das deutsche Reich; Auswärtiges Handel des deutschen Zollgebiets . . . in den Jahren 1880 bis 1896; Statistik des deutschen Reichs.

For the United States: Statistical Abstract of the United States; Monthly Summary of Commerce and Finance; and Foreign Commerce and Navigation.

The figures for the United Kingdom, Germany, and the United States include only domestic products. France, however, has so important a transit trade that it has been thought best to include in the French figures foreign as well as domestic exports.

[2] Amounts given in millions of dollars.

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TABLE VI.

EXPORTS OF IRON AND STEEL AND MANUFACTURES THEREOF, IN MILLIONS OF DOLLARS: PROPORTION GOING TO BRAZIL, IN PERCENTAGES.

	United Kingdom.[1]			France.[1]			Germany.[1]			United States.			United Kingdom, Germany & France.		
	To all countries.	To Brazil.	Percentage.	To all countries.	To Brazil.	Percentage.	To all countries.	To Brazil.	Percentage.	To all countries.	To Brazil.	Percentage.	To all countries.	To Brazil.	Percentage.
1885	168.8	5.5	3.26				27.3	0.252	0.92	16.6	0.61	3.66			
1886	163.0	5.1	3.12				26.7	0.337	1.25	15.7	0.63	3.99			
1887	181.9	4.6	2.55	32.8	0.62	1.89	30.5	0.488	1.60	16.0	0.71	4.44	245.2	5.69	2.32
1888	201.3	5.2	2.56	31.4	0.74	2.36	34.3	0.630	1.84	17.8	0.68	3.82	267.0	6.62	2.48
1889	225.5	5.9	2.63	34.4	0.60	1.74	33.9	1.160	3.42	21.2	0.92	4.32	293.8	7.68	2.61
1890	239.6	8.4	3.50	40.0	1.18	2.95	33.2	1.317	3.97	25.5	0.94	3.67	312.8	10.86	3.47
1891	211.5	11.0	5.22	42.2	2.06	4.88	35.8	2.020	5.37	28.9	2.24	7.76	289.5	15.06	5.20
1892	175.1	7.4	4.25	37.6	1.60	4.26	27.3	1.456	5.30	28.8	2.18	7.91	240.0	10.42	4.34
1893	170.7	6 9	4.07	30.2	0.90	2.98	29.2	1.757	6.02	30.1	1.82	6.04	230.1	9.58	4.16
1894	161.0	6.5	4.06	28.4	0.74	2.61	29.5	1.932	6.50	29.2	1.32	4.51	218.9	9.18	4.19
1895	169.8	6.9	4.07	29.6	0.94	3.18	33.8	3.485	10.30	32.0	2.92	9.12	233.2	11.28	4.80
1896	198.9	7.3	3.67	35.8	0.84	2.34	38.8	2.182	5.60	41.2	2.09	5.07	273.5	10.41	3.83
1897	199.8	3.8	1.90	38.0	0.74	1.94	40.8	1.317	3.20	57.5	1.68	2.91	278.6	6.72	2.41
1898	199.8	5.5	2.75	39.0	0.66	1.69	44.7	1.257	2.80	70.4	1.78	2.52	283.5	7.12	2.51
1899	235.2	5.3	2.25				52.0	1.334	2.57	93.7	1.64	1.75			
1900	250.3	4.9	1.95				59.0	1.490	2.50	121.9	1.93	1.58			

[1] Unfortunately the statistics for these various countries are differently classified. For the purpose of this comparison only the most important items have been included. For the United Kingdom: cutlery, hardware, machinery, iron, and steel; for Germany: Eisendraht, feine Waaren aus Guss-oder Schmiedeisen, grobe Eisenwaaren abgeschliffen und nicht abgeschliffen, etc; for France: machines et méchaniques, outils et ouvrages en métaux.

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TABLE VII.

EXPORTS OF COTTON MANUFACTURES IN MILLIONS OF DOLLARS: PROPORTION GOING TO BRAZIL, IN PERCENTAGES.

	UNITED KINGDOM.			FRANCE.[1]			GERMANY.[1]			UNITED STATES.			UNITED KINGDOM, GERMANY, AND FRANCE.		
	To all countries.	To Brazil.	Percentage.	To all countries.	To Brazil.	Percentage.	To all countries.	To Brazil.	Percentage.	To all countries.	To Brazil.	Percentage.	To all countries.	To Brazil.	Percentage.
1885	266.8	11.6	4.36				9.6	0.41	4.27	11.8	0.52	4.36			
1886	276.5	14.6	5.26				10.7	0.60	5.55	14.0	0.60	4.33			
1887	286.2	13.6	4.74	49.4	1.4	2.84	12.8	0.63	4.97	14.9	0.71	4.72	348.4	15.59	4.47
1888	291.0	14.1	4.83	47.4	1.4	2.93	11.9	0.79	6.64	13.0	0.67	5.12	350.3	16.33	4.66
1889	281.3	12.1	4.31	49.4	1.4	2.84	11.6	1.87	16.12	10.2	0.63	6.18	342.3	15.37	4.49
1890	300.7	14.1	4.68	51.2	1.6	3.12	12.2	1.87	15.27	10.0	0.81	8.13	364.1	17.59	4.83
1891	291.0	12.1	4.17	47.8	2.0	4.19	12.1	1.40	11.49	13.6	0.58	4.27	350.9	15.52	4.42
1892	271.6	16.0	5.89	51.2	1.6	3.12	14.8	1.93	13.04	13.2	0.75	5.66	337.6	19.55	5.79
1893	261.9	17.0	6.48	50.6	2.4	4.74	15.3	2.50	16.37	11.8	1.40	11.88	327.8	21.90	6.68
1894	276.5	15.0	5.44	53.2	2.0	3.76	11.8	1.92	16.27	14.3	1.54	10.73	341.5	18.96	5.55
1895	261.9	12.6	4.81	71.2	2.6	3.65	13.8	1.97	14.28	13.8	1.70	12.34	346.9	17.20	4.96
1896	286.2	10.7	3.73	64.2	1.8	2.80	13.7	1.27	9.27	16.8	0.99	5.89	364.1	13.81	3.79
1897	261.9	8.2	3.14	63.0	1.2	1.87	15.0	0.86	5.73	21.0	0.67	3.20	339.9	10.23	3.01
1898	266.8	11.2	4.18	58.4	1.0	1.78	14.7	0.98	6.67	17.0	0.62	3.62	339.9	13.19	3.88
1899	288.5	8.2	2.84				16.3	0.96	5.87	23.6	0.59	2.50			
1900	300.7	7.6	2.52				19.1	0.69	3.59	24.0	0.44	1.83			

[1] Including only the most important items. For Germany: dichte Gewebe gefärbt, bedruckt, u. s. w.: for France: Tissus, passementerie, et rubanerie de coton.

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TABLE VIII.

Imports into Brazil, in Millions of Dollars: Ratio of Imports of Iron and Steel and Manufactures thereof to total Imports, in Percentages.

	From the United Kingdom.			From France.			From Germany.			From the United States.			From the United Kingdom, Germany, and France.		
	Total.	Iron [1] and Steel.	Percentage.	Total.	Iron and Steel.[1]	Percentage.	Total.	Iron and Steel.[1]	Percentage.	Total.	Iron and Steel.	Percentage.	Total.	Iron and Steel.	Percentage.
1885	25.7	5.5	21.43				2.9	0.252	8.63	7.3	0.607	8.32			
1886	29.1	5.1	17.49				3.7	0.337	9.21	6.5	0.629	9.61			
1887	28.1	4.6	16.46	14.4	0.62	4.30	3.8	0.488	12.95	8.1	0.709	8.75	46.3	5.69	12.28
1888	30.6	5.2	16.88	16.0	0.74	4.62	4.9	0.630	12.84	7.1	0.679	9.56	51.5	6.62	12.85
1889	30.1	5.9	19.76	19.6	0.60	3.06	11.7	1.160	9.93	9.3	0.915	9.84	61.4	7.68	12.50
1890	36.4	8.4	23.07	19.6	1.18	6.02	12.6	1.317	10.47	11.9	0.938	7.88	68.6	10.86	15.83
1891	40.3	11.0	27.44	24.2	2.06	8.51	13.3	2.020	15.16	14.1	2.243	15.90	77 8	15.06	19.35
1892	38.3	7.4	19.40	18.8	1.60	8.52	12.4	1.456	11.70	14.2	2.179	15.34	69.5	10.42	14.99
1893	37.8	6.9	18.36	21.8	0.90	4.13	14.9	1.757	11.76	12.3	1.817	14.77	74.5	9.58	12.86
1894	36.4	6.5	17.99	24.6	0.74	3.01	13.7	1.932	14.12	13.8	1.317	9.54	74.7	9.18	12.29
1895	35.4	6.9	19.54	24.0	0.94	3.92	18.0	3.485	19.32	15.1	2.917	19.32	77.4	11.28	14.57
1896	32.5	7.3	22.46	21.8	0.84	3.85	14.5	2.182	15.07	14.2	2.088	14.70	68.8	10.41	15.13
1897	26.2	3.8	14.50	17.6	0.74	4.20	12.0	1.317	10.93	12.4	1.675	13.51	55.8	6.72	12.04
1898	30.1	5.5	18.27	17.6	0.66	3.75	10.8	1.257	11.58	13.3	1.773	13.33	58.5	7.12	12.17
1899	27.2	5.3	19.48	18.4			11.2	1.334	11.91	12.2	1.643	13.47			
1900	30.1	4.9	16.28	10.4			11.0	1.490	13.59	11.6	1.928	16.62			

[1] Including only the most important items.

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TABLE IX.

IMPORTS INTO BRAZIL, IN MILLIONS OF DOLLARS: RATIO OF IMPORTS OF COTTON MANUFACTURES TO TOTAL IMPORTS, IN PERCENTAGES.

	From the United Kingdom.			From France.			From Germany.			From the United States.			From the United Kingdom, Germany & France.		
	Total.	Cotton Manufactures.	Percentage.	Total.	Cotton Manufactures.	Percentage.	Total.	Cotton Manufactures.	Percentage.	Total.	Cotton Manufactures.	Percentage.	Total.	Cotton Manufactures.	Percentage.
1885	25.7	11.6	45.28				2.9	0.41	13.90	7.3	0.52	7.07			
1886	29.1	14.6	50.17				3.7	0.60	16.30	6.5	0.60	9.29			
1887	28.1	13.6	48.27	14.4	1.4	9.72	3.8	0.63	16.80	8.1	0.71	8.70	46.3	15.59	33.67
1888	30.6	14.1	46.03	16.0	1.4	8.75	4.9	0.79	16.08	7.1	0.67	9.38	51.5	16.33	31.70
1889	30.1	12.1	40.32	19.6	1.4	7.14	11.7	1.87	15.99	9.3	0.63	6.78	61.4	15.37	25.03
1890	36.4	14.1	38.66	19.6	1.6	8.16	12.6	1.87	14.87	11.9	0.81	6.83	68.6	17.59	25.64
1891	40.3	12.1	30.12	24.2	2.0	8.26	13.3	1.40	10.48	14.1	0.58	4.12	77.8	15.52	19.94
1892	38.3	16.0	41.77	18.8	1.6	8.51	12.4	1.93	15.50	14.2	0.75	5.27	69.5	19.55	28.12
1893	37.8	17.0	44.87	21.8	2.4	11.01	14.9	2.50	16.70	12.3	1.40	11.40	74.5	21.90	29.39
1894	36.4	15.0	41.33	24.6	2.0	8.13	13.7	1.92	13.99	13.8	1.54	11.15	74.7	18.96	25.38
1895	35.4	12.6	35.61	24.0	2.6	10.83	18.0	1.97	10.90	15.1	1.70	11.27	77.4	17.20	22.22
1896	32.5	10.7	32.83	21.8	1.8	8.26	14.5	1.27	8.76	14.2	0.99	6.99	68.8	13.81	20.07
1897	26.2	8.2	31.48	17.6	1.2	6.70	12.0	0.86	7.10	12.4	0.67	5.44	55.8	10.23	18.33
1898	30.1	11.2	37.09	17.6	1.0	5.91	10.8	0.98	9.07	13.3	0.62	4.63	58.5	13.19	22.54
1899	27.2	8.2	30.35	18.4			11.2	0.96	8.57	12.2	0.59	4.84			
1900	30.1	7.6	25.25	10.4			11.0	0.69	6.27	11.6	0.44	3.79			

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TABLE X.

Imports into Brazil.[1]

	Cotton Manufactures.				Iron and Steel and Manufactures Thereof.			
	From France, Germany, and United Kingdom.	From United States.	From all four Countries.	Percentage from United States.	From France, Germany, and United Kingdom.	From United States.	From all Four Countries.	Percentage from United States.
1887	15.59	0.71	16.3	4.36	5.69	0.709	6.4	11.09
1888	16.33	0.67	17.0	3.94	6.62	0.679	7.3	9.32
1889	15.37	0.63	16.0	3.94	7.68	0.915	8.6	10.70
1890	17.59	0.81	18.4	4.40	10.86	0.938	11.8	7.97
1891	15.52	0.58	16.1	3.60	15.06	2.243	17.3	12.95
1892	19.55	0.75	2.03	3.69	10.42	2.179	12.6	17.30
1893	21.90	1.40	23.3	6.01	9.58	1.817	11.4	15.96
1894	18.96	1.54	20.5	7.51	9.18	1.317	10.5	12.57
1895	17.20	1.70	18.9	8.99	11.28	2.917	14.2	20.56
1896	13.81	0.99	14.8	6.69	10.41	2.088	12.5	16.72
1897	10.23	0.67	10.9	6.15	6.72	1.675	8.4	20.00
1898	13.19	0.62	13.8	4.49	7.12	1.773	8.9	20.00

[1] Amounts given in millions of dollars.

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THE INDUSTRIAL COMMISSION ON TRANSPORTATION.

AN extended criticism of the Transportation Report of the United States Industrial Commission, by the (then) editor of the *Railway World* was published in the December number of the POLITICAL SCIENCE QUARTERLY. Although directed to the report of the Commission, this article specifically and truly assigns the authorship of its report to me by name. For this reason, I should like to add a few comments, touching various facts in railroad history which have been called in question.

First, as to the denial by this critic of the Commission's Report of the well-known fact that the carriers resisted the anti-pooling provisions of the Act to Regulate Commerce, by every known device, not only until the final adjudication of the Traffic Association cases in 1897, but even up to the date of the Report of the Industrial Commission. He says — and this as indicative of the general tenor of his criticism — :[1]

> There is no possible excuse for discussing under the maliciously misleading title of "Railroad Pools since 1887" the railway associations that have existed since the enactment of the Interstate Commerce Law. The evidence collected does not pretend to show that a real pool of traffic was ever attempted by more than one of the associations named, and it is admitted that even in this instance the agreement was never fairly in operation. The great majority of the associations named existed merely for conferences concerning rates and regulations, the promulgation of rate schedules and the collection of traffic statistics.

Does it not appear as if this critic would have one believe that the carriers in fact never presumed to pool their traffic since the stroke of midnight on February 4, 1887? The contention is not only false but preposterous. In the body of the Report under criticism is reprinted the alloted division of freight on the trunk

[1] Vol. xvii, p. 583.

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lines under the Joint Traffic Association as late as 1894.[1] The Buffalo Grain pool of 1900 is, moreover, fully described in another place[2] on the authority of the Interstate Commerce Commission. Widespread existence of cotton pools in the Southern States is likewise described at length in the body of this report.[3] These virtual pools have been so open in their operation that they have been involved in litigation by private shippers in the supreme court of Tennessee, in 1899 (Post *v.* Southern Railway Company, 52 S. W. Rep. 301). The percentage division of cotton traffic at Memphis is described therein at length. I have personal knowledge of such virtual pools in at least three Southern common points within the last three years, holding copies of their daily allotment sheets among my most valued private treasurse. The Department of Justice has, in fact, recently obtained an indictment against two railroad groups at Memphis and Atlanta[4] on the basis of these practises. Even the aid of the courts has in at least one instance as late as 1894, been invoked to compel payments of allotted earnings between carriers, in other parts of the country, although the action failed.[5] Does this look as if the Industrial Commission's Report were indeed "maliciously misleading" on this point?

Another question as to fact concerns the attitude of the courts toward railway pooling. The critic takes violent exception to the statement of the Industrial Commission. He avers that

> the legality of railway pooling was never directly passed upon by a United States court prior to the enactment of the Interstate Commerce Law, which forbids it; and it has been sustained in England, where such contracts are regularly resorted to, as most students of transportation are aware.

The statement of fact by the Industrial Commission seems to me substantially correct as made. The real point at issue, which

[1] Report, p. 335. At p. 330 is also given the percentage divisions for 1887 and three following years, which by their constancy certainly justify the suspicion that some agreed division existed.

[2] Report, p. 342.

[3] P. 341.

[4] 16th Ann. Rep. I. C. C., pp. 43, 44.

[5] Chicago, *etc.*, Ry. Co. *v.* Wabash, *etc.*, Ry. Co., 61 Fed. 998.

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the critic cleverly dodges in this phraseology, is as to the attitude of the courts under the common law, rather than as interpreting a specific statute, like the prohibition of pooling in 1887. It makes no difference whether the agreements in question be industrial or railway pools. Only one of the latter seems to have been adversely passed upon by an American court prior to the Intertsate Commerce Law.[1] Since then — and this is in itself suggestive as bearing upon the preceding paragraph respecting the existence of such pools since 1887 — the courts are of course specific in their pronouncements, as indicated by the language in a suit brought in 1894 to compel payment by a receiver of one road to another, of an agreed division of freight receipts

> Courts will not lend their aid to enforce the performance of a contract which is *contrary to public policy*[2] or the law of the land, but will leave the parties in the plight their own illegal action has left them.[3]

There can be little question as to the tenor of the common law decisions against pooling of this or any other kind. This is exhaustively shown in citations in *Briefs for the United States* in the Joint Traffic Association cases. It is perfectly clear that American courts have, in the language of the Solicitor-General, "almost without exception held such pooling contracts illegal."[4] Even without the specific prohibition of 1887, the unanimity of these decisions, would almost have sufficed to inhibit the continuance of pooling contracts. So that the Industrial Commission would seem to have erred, if at all, in understating this portion of the case.

As to the attitude of the English courts, that of course is different. The case cited by this critic, however, (Hare *v.* Railway Company) which, as he rightly avers, sustains railway pooling, may profitably be compared with others, perhaps unfamiliar to him, showing some modification of this view.[5] As to the Amer-

[1] Missouri Pacific R. Co. *v.* Texas, *etc.*, R. Co., 30 Fed. 2 (1887).

[2] The italics are our own.

[3] Chicago, *etc.*, R. Co. *v.* Wabash, *etc.*, R. Co., 61 Fed. 998 (1894).

[4] Oral Argument in Reply. Supreme Court, U.S., October Term; U.S. *v.* Joint Traffic Association, No. 341, p. 49.

[5] Charlton *v.* Newcastle, *etc.*, R. Co. Cited by Noyes, Intercorporate Relations, p. 524.

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ican courts, which alone have any significance, the case is perfectly clear; nor has the recent Northern Securities decision tended to make it any the less so.

All of these considerations of course have nothing whatever to do with the distinct issue as to the desirability of repealing the anti-pooling clause of the Act to Regulate Commerce. On this point the former editor of the *Railway World* and myself are in perfect accord. So strenuously, in fact, is this urged in the Industrial Commission's report that elsewhere, even in this biassed criticism, it is conceded that "pooling is accurately presented." The issue which I would raise, then, is not on any question as to the desirability of Congressional action, but upon the plain statement of historic fact. In the best interests of the carriers themselves, it needs to be demonstrated: first, that they have been unable to avoid ruinous competition, until they actually consolidated or hit upon community of ownership as a remedy, except by doing in secret what they were prohibited to do openly; and secondly, that not only must the specific prohibition of 1887 be repealed, but a constructive statute to avoid the common law inhibition must also be devised. Only thus may we hope for some substitute, in traffic agreements under governmental supervision, for the wholesale tendency to consolidation which seems to have no limits at the present time.

Many other issues of fact raised need not be discussed on behalf of the Industrial Commission at all, but may more properly be referred to the more responsible authorities available. It was unfortunate that the form of the report did not permit a specific citation by foot-notes of such authorities. They may be easily consulted in a few typical instances.[1] Thus, "if the conclusions of the report are worthless" as to the percentage advance of freight rates by changes of classification since 1899, it is but proper to refer the issue to the Interstate Commerce Commission,[2] on whose authority, specifically cited, the statement by the Industrial Commission was made. In another place the report of the Industrial Commission states that

[1] Political Science Quarterly, Vol. xvii., p. 572.

[2] Fourteenth Annual Report, 1900, p. 14.

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The New York Central owned 91.5 per cent of the stock of the Lake Shore and Michigan Southern road prior to its absorption. It at the same time owned 86 per cent of the stock of the Michigan Central.

This critic of the Industrial Commission states that these are both "contrary to well-known facts."[1] Reference may be made to Poor's Manual of Railroads, not of 1901, but of dates available when the report was written.[2] It there appears that the New York Central in 1899 owned 452,696[3] shares out of a total of 494,665 shares of common stock of the Lake Shore road (91.5 per cent); and that at the same time it held 161,275 shares out of a total of 187,380 shares of common stock of the Michigan Central railroad (86 per cent). It will require some acuteness to detect the error here, although there is a slight ambiguity of statement, inasmuch as these percentages of ownership have varied slightly since the exchange of securities incident to the absorption. In another typical case this critic remarks upon the financial features of the Commission's report, averring that

> a disregard of the obligations of public authorship is shown in the treatment of railway capitalization. The figures for 1890, as stated by the statistician to the Interstate Commerce Commission, in his report are employed without deducting current liabilities in a comparison with the figures for 1900, when current liabilities were deducted.[4]

Now on the very page of the Report cited, occur these words:

> The figures taken from the reports on the Statistics of Railways are not, however, strictly comparable; for, previous to 1896, current liabilities were included in railway capital and thereafter not.[5]

The figures as published seem to be perfectly clear and explicit. No further comment upon the resort to such methods as this in so-called judicial criticism, would seem to be necessary.

[1] Political Science Quarterly., Vol. xvii, p. 575.

[2] For 1900, pp. 13, 131 and 146–7.

[3] In 1898 it owned substantially the same, *viz.*, 449,693⅜. Poor's Manual 1899, p. 152.

[4] Political Science Quarterly, xvii, p. 577.

[5] Final Report, Industrial Commission, p. 330.

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A more serious general defect in this criticism of facts, as they are stated by the Commission, is its anachronism. The criticism seems to me lamentable in this respect. The majority of the alleged errors are based upon events of railroad history which have materialized *subsequent* to the preparation of the report. In no less than nine instances are apparent errors shown by this critic by reference to Poor's Manual of Railroads for 1901. To the uninitiated it should be stated that copies of this valuable authority are not available to the public until late in the fall of each year, usually in November. This report was written in August, and in the main approved by the Commission in September of 1901. Those months were characterized by the wildest activity in railroad deals and consolidations, many of them affected by the organization of the Northern Securities Co. Take, for example, the alleged or "intimated" error in describing the Chesapeake and Ohio railroad absorption by the Pennsylvania, under the head of consolidation by lease. This statement was made upon the best available information, at the time, and was currently believed to be the form which the amalgamation had taken.[1] It does not appear to invalidate in the least the general accuracy of the Commission's report or its method of investigation that this "intimated" lease should *afterward* turn out to be a consolidation by stock control. Precisely the same situation was involved in the description of several of the other consolidations, notably of the Jersey Central and Reading companies, of the Northern Securities Company, and of the Southern Trans-Continental railways. Even at the present time, in the case of some of these deals, there are certain details which have not yet been made public.

It seems to me, moreover, that this criticism invites the suspicion of rank partisanship in still other respects. Not only is its language intemperate, impugning even the good faith of those concerned, but advantage seems to be taken of every possible slip, trivial or obvious, to warp and distort the text into a meaning entirely out of accord with any possible intention of the Com-

[1] All through the spring months of 1901 this was reputed to be the form of consolidation. Consult, for example, a column article in the *New York Times*, March 9, 1901.

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mission, as well as impossible in the context. Thus, for example, under "Consolidations of 1898–1900" the report of the Commission states, of the absorption by the New York Central of the Lake Shore road, that these consolidations "have since been followed by the acquisition of the New York, Lake Erie and Western," etc. There is obviously some slip here. The veriest tyro must be aware that the old Erie railroad was not absorbed by the New York Central between 1898 and 1900. It is still, in 1903, an active factor in trunk-line business, despite its age, its infirmities, and the iniquities of its youth. It is perfectly clear, — and the critic acknowledges it in an obscure foot note — that this reference was to the Lake Erie and Western, a small railroad, which was controlled by the Lake Shore until formally taken over. Yet the critic takes advantage of this error in proof-reading and seeks to cast ridicule upon the Report of the Commission, charging it with having solemnly announced the absorption of the Erie system by the New York Central as an important event in railway history.

The foregoing is a typical example. Similar ones run through forty pages of the POLITICAL SCIENCE QUARTERLY. Whether the issue turns upon the technical question of the precise affiliation of the Pennsylvania to the Western New York & Pennsylvania, — that is to say, whether this is a case of consolidation by lease or by stock control, when the Pennsylvania, which owned nearly all of the stock, then leased its own property to itself, retaining its own stockholdings at the same time, — or whether 40-ton hopper cars are "*necessarily* made of pressed steel or not," the method and spirit of the criticism are the same.

The painstaking proof-reading to which the former editor of the *Railway World* has sedulously subjected this report has been carefully checked. The net result may not be without interest. Eliminating the alleged or "intimated" errors about consolidations, in progress at the time of writing but not yet completed or made available by authentic publication, the subjoined table of errata represents the result.[1]

[1] ERRATA.

Page 275, line 13. The figures refer not to the entire Illinois Central Railroad, but only to its Yazoo and Mississippi Valley division.

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The railway question is not likely to become less pressing within the next few years. Its wise solution will demand the earnest consideration of all parties interested. I cannot but feel that such evidently biassed, partisan and picayune criticisms as the one in question, not only tend to confuse the public mind as to the real issues involved, but also by the antagonisms which they arouse prejudice the cause of the carriers themsleves, which they are intended to protect. The over-zealous attorney is not seldom the least useful advocate.

Page 293, line 14. For "necessarily" read, "economically."

Page 305, line 12. For "only important system" read, "most important system."

Page 306, line 35, should read "Lake Erie and Western," omitting New York.

Page 313, line 31. For "prior to absorption" read "prior to the exchange of Lake Shore stock for New York Central bonds."

Page 328, line 17. For "will control absolutely" read, "will practically control."

Page 335, eleven lines from bottom. "It" should read, "an informal association."

Page 338, line 23, should read "have almost invariably been held illegal by American courts."

Page 346, line 14. Instead of "specific instance" read, "typical instance would be."

Other changes than these should be noted in the chapter on "Consolidations since 1898," in order to bring the report to date in 1903. While historically notable they are of minor importance, to the conclusions reached.

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REVIEWS.

A History of American Political Theories. By CHARLES EDWARD MERRIAM, PH.D. New York, The Macmillan Company; London, Macmillan & Company, Ltd., 1903. — xv, 364 pp.

IF there are any historical students who look askance at political theory and political philosophy as out of the domain of the earthly and the real, such books as this of Dr. Merriam's ought to lessen the number. The political scientist may assert that such writing is peculiarly within his field; but the historian may rest assured that, whatever field it may nominally occupy, the book is safely within the realm of history in its larger aspects; for surely we have passed away from the time when history had to do only with human acts and surface phenomena. The principles on which men were acting, or thought they were acting are certainly within the scope of historical investigation. One may therefore ask himself whether such study as this is not necessary for an understanding of American political history; is it not in reality a part of constitutional history?

The book before us has eight chapters and a conclusion, which is numbered as the ninth chapter. The first deals with the political theory of the colonial period; the remaining chapters treat of the theories that have shown themselves since the beginning of the Revolutionary argument one hundred and forty years ago. The strongest pieces are those dealing with Jacksonian Democracy, the political theory of the slavery controversy, and the nature of the Union. The thinking is clear and explicit; the language is remarkably simple, straightforward, and uninvolved. No one could have written the book who was not unaffected in his scholarship, or who had not a strong, unwavering grasp of his subject. The reading on which the author's conclusions are based is ample, showing few omissions of essential material, and there is evidence of a reasonable knowledge of the facts and forces of American history in the ordinary sense of the words. The volume will therefore prove useful to the teacher and student of political and social movements in America.

The chief unfavorable criticism is one which at first sight may seem trivial. The work does not, in a satisfactory way, bear out its title. It is really a series of essays in American political theory, chronologically arranged, but not with that vital connection which we hope for,

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even if we do not get it, in a true history. Moreover, there are many things left unsaid; there are so many really vital portions of the development omitted that one thinks the author's use of the word history is a little misleading.

The author has not seen fit to distinguish between political philosophy and political theory, or between the merely theoretical and the practical. This, I imagine, is in accord with his firm belief. But I feel sure that a distinction clearly marked in his own mind would have served him well and his readers better. We may admit that to adhere to the distinction is very difficult; but there is certainly great difference between the fundamental thinking of the Revolutionary period and such a theory as the advisability of separating the powers of government. Very much hangs on the fact that the fundamental thinking of the eighteenth century was essentially different from that of fifty to eighty years later; that is to say, that men unconsciously approached the problems of the state and of government quite differently. Without seeing this, and noting how the change came in the development of American society, the reader is dealing only superficially with the statements of Samuel Adams, of Calhoun, or of later writers and statesmen. Indeed, here we have one very marked characteristic of the book; and it seems to the reviewer a very decided defect. The writer deals in very great measure only with the political theories that are put forth as such, and not only fails to characterize and classify the philosophical ideas, but also fails to bring out the political theory that has shown itself in the handling of practical facts. This accounts, therefore, for a long and even serious discussion of John Adams's *Defence of the Constitutions* and for a sober reference to Taylor's *Enquiry*, in a book that has space for only a passing reference to the formation of the early state constitutions. Yet in the development of American political theory, in the transference of political philosophy into constitutional law and real institutions, how supremely important were these early conventions, and how supremely unimportant were John Adams's speculations on the nature of government. If we agree that contributions to political theory must be made in books like Locke's *Essays*, or Rousseau's *Contrat Social*, or Adams's *Discourses on Davila*, then the author is entitled to say, as he does, that few contributions have been made by America; but is not this a very superficial view to take, — a view with which Dr. Merriam concludes, but to which he has been unable to adhere in the course of his volume? If that is political theory, then its history would be a description of the books and essays that have been written in the field of political theory.

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Nearly every chapter invites comment and discussion; there is very clear statement, and almost no positive error, but there are some evidences of a failure to see the wider bearings of some of the phases of the subject. The author's classification of the Revolutionary arguments certainly could be made more distinct; but here there seems to be a failure to discern the real character of some of the most fundamental propositions. For example, the argument of Samuel Adams was not in his own opinion extra-legal, and therein lies its significance to the student of American politics. Dr. Merriam says the colonists carried the discussion beyond the boundary line of public law. To place their natural right and contract argument outside of the domain of public law is at least to run the danger of misunderstanding it completely, and certainly the author has not thrown light on the real character of this particular line of argument. Adams did not admit that Parliament had the legal right to pass acts that were unjust, because they transcended the laws of nature. The law of nature is *law;* if Parliament acts beyond it, the act is not law. The assertion that Parliament is of limited authority, and bound by a standing law which it cannot alter, or that in every free state there is an unalterable law binding on the legislature thereof, is not likely to be emphasized too strongly by any one seeking to select the really significant in American theory. The fundamental legal notion, which Adams put forth time and time again, is possibly *par excellence* the American notion of to-day; and the fact of chiefest significance in the history of those days is this transformation of legalistic theory and argument into actual institutions. If one were asked to select from the writings of the time, a single sentence that would contain the American argument more fully than any other, he would not choose "Taxation without representation is tyranny," nor perhaps even "Governments derive their just power from the consent of the governed," but this from Samuel Adams:

> This Constitution, my Lords, is fixed; it is from thence that all power in the state derives its authority; therefore no power can exceed the bounds of it without destroying its own foundation;

or this:

> But, in all free states, the Constitution is fixed; it is from thence that the supreme legislative, as well as the supreme executive, derives its authority.[1]

And such central characteristic American principles as this — which Dr. Merriam does not mention — were the direct result of belief that the law of nature embodied in a free constitution is law, and, as Locke

[1] Wells, The Life and Public Services of Samuel Adams. I, 160, 163.

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said, a standing rule to all men. Surely, also, the author might have mentioned in this chapter Locke's theory of the prerogative, and shown how it was used in America, and given a democratic interpretation.

It may be permissible to find fault with another chapter. The discussion of the slavery controversy is very helpful, but here again there seems to be lack of grasp of some of the fundamental facts. It will not do, for example, to talk of the Abolitionists and their use of the law of nature and of natural right as if they belonged to the individualistic school of the eighteenth century. The author does not lead the reader to see the immense advance in the seventy years from the outbreak of the Revolution. With all the apparent individualism of Garrison, the very motto of the *Liberator* showed that he was in an advanced stage of thinking: "The world is my country, and my countrymen all mankind." Abolitionism (and certainly this should be pointed out in any book, however short, dealing with the principles of anti-slavery agitation) was an extravagant manifestation of the humanitarian spirit of those times. And no one would consciously connect humanitarianism with individualism, even if men did speak of natural right, and resent the interference of the government with freedom. Abolitionism was transcendentalism in its elemental character; and surely one would not confuse the animating spirit of the Brook Farm adherents with eighteenth century individualism, even if Bronson Alcott and his followers did seek to live close to nature, and, like the Fathers, rebelled against the social conventions that were the products of history. By not noticing such evident facts as these, the author has not seen that the position of the Abolitionists marks in a striking and dramatic fashion the incursion of the non-individualistic notion, the sentiment that one cannot do what he will with his own; cannot live for himself alone. Abolitionism was but another exhibition of the new life which showed itself in the missionary societies of the time, the public schools, the temperance agitation, and the many other social movements of the Jacksonian epoch. It is not going without the chosen realm of the author's study to bring out the fact that the moving spirit in the nineteenth century was a sentiment of human brotherhood, and that this sentiment — emphatically the opposite pole from the individualism of which he treats in his early chapters — through the anti-slavery agitation became the most potent agent in the most important political and constitutional movement of the century.

In spite of these criticisms, the judgment on the book must be decidedly in its favor. To say that it is incomplete means more than that it is small, because at times the fact or the principle omitted is

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essential and pivotal; but incompleteness and occasional surface treatment do not mean that the author is careless or slovenly or weak, for there is scarcely a positive misstatement in the book from beginning to end. There are many indications of vigorous and clear thinking; and, for emphasis, one should again speak of the admirable clearness of the style, which never for a moment leaves the reader in a fog, and which proves that in considering every subject the author was not content with less than a clear vision of things face to face.

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Rhode Island: Its Making and Its Meaning. By IRVING BERDINE RICHMAN. G. P. Putnam's Sons. New York and London, 1902. — 2 vols., xiv., 266, iv., 295 pp.

IN his *American Commonwealth*, vol. 1, p. 18, the Hon. James Bryce says:

> This singular little commonwealth, whose area is 1,085 square miles (less than that of Ayrshire or Antrim), is of all the American States that which has furnished the most abundant analogies to the Greek Republics of antiquity, and which best deserves to have its annals treated by a philosophic historian.

That such an historian has entered this fertile field and worked it effectively is revealed to whoever reads Mr. Richman's work. It is an interesting fact that this first "philosophic historian" of the early history of Rhode Island gained his first impulse in this direction from personal conversations with Mr. Bryce himself. That great liberal teacher is further identified with this work by the introduction which he has written, wherein he points out as the three distinguishing principles in Rhode Island history, the recognition of complete liberty of conscience, the fullest civil liberty of the individual, and the prior right of the Indians to the soil. The last of these was from its nature limited to the early years of the colony. Casting aside the strict chronological order, Mr. Richman groups his facts about the two former principles of Freedom of Conscience and Political Individualism. The interaction of these ideas and their influence upon the political and social life of the colony, is the *motif* of the work.

A full discussion of the controversy between Massachusetts and Williams and the Antinomians leads to the conclusion that it was the time-spirit of toleration at issue with the reactionary spirit of Puritan theocracy. By her systematic course of persecution Massachusetts

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was setting herself "squarely antagonistic to the time-spirit, was becoming already at birth an anachronism," while Williams, Vane, Clarke, and perhaps unwittingly Anne Hutchinson, "were the representatives and instruments of the time-spirit — of the spirit of toleration — in America in 1637."

This time-spirit was put to the test when Samuel Gorton, self-styled "Professor of the Mysteries of Christ," appeared upon the scene. His career at Providence and Pawtuxet, before his departure to found the fourth town of the colony at Shawomet, was tumultuous though brief.

To the establishment of such heresy upon her borders Massachusetts lost no opportunity of raising obstacles, whether it was in inducing the Indians and the Pawtuxet men to accept her jurisdiction, in making war upon the settlers at Shawomet, or in sending active emissaries to oppose the patent.

The Quaker invasion of New England gave a further test of the genuineness of religious liberty in Rhode Island, which even Roger Williams could scarcely endure. But when the United Colonies signified their pleasure that Rhode Island should not admit or tolerate Quakers, the words of Governor Arnold rang true:

> We have no law whereby to punish any for only declaring by words their minds and understandings concerning the things and ways of God as to Salvation and an eternal condition.

From the beginning the spirit of freedom in religion reacted strongly upon politics. At Aquidneck the autocratic rule of a Judge was soon checked by the institution of quarterly meetings of the corporation. So rapidly did the tide of democracy rise, that the aristocratic element was impelled to separate and found a new town.

The body politic in Providence and in Aquidneck was at first a land-holding corporation, which, while granting lands in freehold to purchasers, granted a freehold which was determinable rather than absolute. In Aquidneck common interests led early to a union of the two towns into one body politic. In the union democracy triumphed over the law of Moses, and connection between proprietorship and citizenship ceased. Though in Providence the original plan was modified by the demand for individual ownership, the complete separation between these did not take place until 1718. At Shawomet the individualism of the inhabitants ran to the extent of denying their own authority to institute any form of government at all without sanction from England.

The General Assembly, which, after many delays, met in 1647 to organize the new government, was a popular assembly rather than a

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representative body. It declared that the "form of government established in Providence Plantations is Democraticall." The organization of the legislative branch included provisions for a General Assembly of all the people. Laws might be initiated by the united action of town meetings in all the towns, or by a representative General Court. This action, after being reviewed by the other of these two bodies, was to be referred for final approval to the General Assembly of all the people. The President had little executive authority.

The looseness of the bond of union between the towns is betrayed by the readiness with which, at the touch of Coddington's usurping commission, the colony was resolved into its elements, and by the fact that when that commission was revoked, a year and a half elapsed before the individualistic mainland towns could be induced to resume their functions in the united colony.

A distrust of power was the chief underlying cause of Rhode Island's political vicissitudes. This distrust was shown:

> as to local affairs by the early enactments at Providence and on Aquidneck in favor of Soul Liberty and Individualism; and as to the affairs of the commonwealth, by the Landesgemeinde provisions of 1647, confirming Magna Charta, subordinating the executive to the legislature, and permitting judicial appeals to the General Assembly; also by the further provisions reserving certain powers to the towns: as of determining the qualifications of voters; of initiating all legislation, either in town or General Court meeting; of apportioning and collecting general as well as local taxes; and of participating, through the town magistrates, in the dispensation of justice by the colony Court of Trials.

But at the same time certain counter-tendencies are to be observed looking toward centralization. For example, all powers of the General Assembly of all the people, except the power of election, was transferred to the representative General Court, as was also finally its name; again, those received as freemen in the towns must, to exercise colony rights, be admitted freemen of the colony; and still further, it was decided that no law of the colony should be nullified under pretence of authority of any town charter.

The Charter of 1663 was the great unifying instrument which, overbearing much that was narrow and individualistic, guaranteed the cherished principles for which the colony stood.

Two chapters the author devotes to two leading questions which stirred the colony for the next fifty years, — the Harris land controversy, growing out of the land system of Providence, and the struggle

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for territorial integrity against treason from within and attack from without.

Nothing strikes the reader more forcibly than the contrast between these volumes and the average town or state history. Facts which are but incidents are carefully subordinated, and the movement of the central thought is continuous. It is remarkable that an author unfamiliar with the territory should have made so few geographical errors. In volume 1, p. 30, he says "Seekonk, now Rehoboth." The spot referred to was early included in Rehoboth, afterward in Seekonk, and is now in East Providence. On his maps, for Ponaganset Pond the author has mistaken Barden's reservoir near Ponaganset village.

Perhaps no portion of the work is more valuable than that devoted to Roger Williams in England. Much that is new is brought out, and the intimate relation existing between advanced thinkers of that day in England and America is emphasized. In these chapters and that on "The Harrying of the Gortonists" we are shown that seventeenth century theological discussions possess a humor and interest seldom suspected. Mr. Richman is fortunate in possessing a happy literary style. One quite forgets that he is treating a subject so often conceded to be dreary and uninteresting. The description of the trial of Anne Hutchinson is a masterly bit of dramatic writing. The discussion of the land system gives a glimpse into a field as yet little worked.

Mr. Richman's work is so good that it is to be regretted that another volume was not added in which the logical working out of these individualistic tendencies might have been shown. Their influence upon local institutions might, in such a volume, have been followed farther with profit. The Town Council, for example, with its probate jurisdiction, has no parallel in New England. The minimizing of the executive department to the present day, the centralization of executive power in the hands of the General Assembly, and the retention of appellate jurisdiction in law cases by the General Assembly until 1856, may all be explained by the dominant principles.

FRANK GREENE BATES.

The Story of the Mormons. From the Date of their Origin to the Year 1901. By WILLIAM ALEXANDER LINN. New York. The Macmillan Company, 1902. — 618 pp.

No study of the American people is complete if it fails to explain that strange episode in the history of the westward movement which began with the alleged revelations to Joseph Smith and culminated in

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national legislation to suppress polygamy and to curb the pretensions of a church that aspired to contest sovereignty with the nation The story of the Mormons is one that derives interest from almost every phase of human credulity, fanaticism, persecution, martyrdom, patient endurance of hardship, genius for social organization, and the evolution of institutions in keeping with the characteristics of an environment. Many attempts to explain Mormonism and to tell its history have been made, some of them by disciples of that faith, others by its opponents; but one and all they have left much to be desired. From whatever side emanating, they have been untruthful in fact, whether or not untruthful in intent; and none of them has shown any breadth of view, or power of philosophical interpretation.

In Mr. Linn's volume we now have for the first time a complete, an intelligent, a scholarly history of Mormonism, which bears on every page the stamp of truth, and evidence of exhaustive research. It is a volume which will stand among the original and permanent contributions to American history.

Mr. Linn has made his work primarily a narrative of Mormonism as a secular movement, a great social and political development, having its sources in comprehensible conditions, rather than as a mysterious religious phenomenon, something strange or apart from the familiar circumstances of American life. His search has been for facts, not for arguments for or against religious dogmas. He has been fortunate in discovering large masses of authentic materials, many of which the Mormon hierarchy has exerted itself to suppress, without achieving that complete annihilation which alone could foil the research of the conscientious historian. Happily, the New York Public Library now possesses in the Berrian collection of books, early newspapers, and pamphlets on Mormonism, and in important additions from other sources, practically all the material that is necessary for the formation of an impartial judgment on every question pertaining to the origin of the Mormon faith and migration. It will be an easy matter for any student who wishes to do so to check Mr. Linn's statements and conclusions.

Nothing could be better as an intelligent study of the origins of a great faith, implicitly accepted by thousands, which was compounded of frauds and delusions that may be traced step by step, than Mr. Linn's opening chapters. The character of Joseph Smith, Jr., has recently been made the subject of two or three interesting psychological studies; but there has been no better characterization than we find in Mr. Linn's pages. A brief and simple statement of the incontrovertible facts, they clearly exhibit Smith as a degenerate, ignorant, untrust-

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worthy, susceptible to all of those influences that we now class as hypnotic, and probably also at times self-hypnotized. Upon this susceptible creature played the clever renegade preacher, Sidney Rigdon. In Solomon Spaulding's manuscript, a work which seems to have been suggested by Spaulding's interest in Indian burial mounds, but which was elaborated probably in the conscious hope of literary recognition and pecuniary reward, Rigdon found precisely the material that he needed for the bible of a new religion, of which Smith should be the prophet. The whole story of the development of this manuscript into the first printed edition of the Mormon bible through the imposture of the golden plates, is carefully told.

Yet more admirable, however, are the subsequent chapters, which set forth fully and fearlessly the career of the Mormons in Ohio, in Missouri and in Illinois, the migration to Utah, and the growth of the Mormon power at Salt Lake City. The ability, industry, patience, and self-sacrifice which have characterized the growth of this power are fully recognized, while its criminal responsibility for such infamies as the Mountain Meadow massacre is fully set forth. Mr. Linn's analysis of the present situation in Utah, including the political pretensions of the church, and the actual policy of the hierarchy in respect of polygamy, is not alarmist, but it is plain spoken, and, like all the other chapters, keeps close to the admitted facts. Mr. Linn does not think that polygamy has in fact been abandoned, nor does he believe that it will be exterminated without further congressional action.

> All the testimony I can obtain in regard to the Mormonism of to-day, shows that the Mormon women are now the most earnest advocates of polygamous marriages. Said one competent observer in Salt Lake City to me, 'As the women of the South, during the war, were the rankest rebels, so the women of Mormondom are to-day the most zealous advocates of polygamy.

Of the political pretensions of the church he says,

> The devout Mormon has no more doubt that his church will dominate this nation eventually than he has in the divine character of his prophet's revelations.

These judgments carry weight because of the exhaustive survey of facts upon which they rest. Mr. Linn's book is eminently one of those that every intelligent American who wishes thoroughly to understand the greater problems of his country's history and future welfare should take time to read with thoughtful care.

FRANKLIN H. GIDDINGS.

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History of the Constitutions of Iowa. By BENJAMIN F. SHAMBAUGH. Published by the Historical Department of Iowa, Des Moines, Iowa, 1902. — vi, 352 pp.

ONE of the most interesting phases in American history is the constitutional development of the various commonwealths in the Union. The number and variety of political experiments made in the different States offers a wealth of material to students of American institutions, and particularly to those desiring a closer knowledge of the development of American democracy. A study of State constitutions and the discussions accompanying their formation throws much needed light on such problems as the reasons for the expansion of the suffrage, the strengthening of the governor's power, the weakening of the legislature, the democratization of the judiciary, and other equally significant changes in the structure of State governments.

Mr. Shambaugh's volume on the Constitutions of Iowa is a history of the constitutional experiences of a typical Western State. It covers the so-called "squatter constitutions" and the conventions and constitutions of 1844, 1846 and 1857, presenting an analysis of the debates in these conventions and a sketch of the constitutions adopted or proposed. Of these topics the "squatter constitutions" and the constitution of 1844 are the most carefully treated, and constitute the most valuable portion of the work.

Although there are excellent features in Mr. Shambaugh's volume, there are also many unfortunate blemishes. The introductory chapters dealing with certain general considerations are, on the whole, unsatisfactory, and do not help the reader very much. Thus, the author refers (p. 18) to "facts of character" as the most important element in the political development of Iowa: — "The ideals of pioneer character became the determining factor in Iowa's political evolution." Later it appears (p. 25) that

> The pioneers of Iowa were what they were largely because the conditions of frontier life made them such. They were sincere because their environment called for an honest attitude.

Again, it is unfortunate that the constitution of 1857 receives very scanty treatment, wholly out of proportion to the attention given the other constitutions. The lack of foot-notes and the absence of an index are serious faults, hardly pardonable on the author's plea that the volume is a "narrative essay." An appendix containing the various constitutions discussed would have been a very valuable and welcome

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addition to the text. On the whole, the author's work has suffered from an apparent effort to make the volume at once scientific and popular, and the result is a product that falls short of the standard of excellence already set by Mr. Shambaugh in previous publications.

C. E. Merriam.

The University of Chicago.

Democracy and the Organization of Political Parties. By M. Ostrogorski, translated from the French by Frederick Clarke, M.A., with a preface by The Right Hon. James Bryce, M.P. New York. The Macmillan Company, 1902. — 2 vols., viii., 627, xliii., 793 pp.

Mr. Ostrogorski's work under review is the most serious and thorough examination that has yet been made of the origin, development and operations of political parties. At the same time it must be confessed that the entire subject has not been treated. None of the developments of party on the continent of Europe has been subjected to study. Perhaps it may be said that these phenomena have been omitted on the ground that they have not occurred in a democracy. But no such excuse can be offered for the failure to treat of parties in the great British self-governing colonies.

Manifestations of party in countries other than Great Britain and the United States, to which Mr. Ostrogorski has confined his attention, have been unnoticed, unquestionably because of the magnitude of the task involved. Even with its present limitations the work has assumed formidable dimensions, and must have required an almost incredible amount of time and investigation.

From the nature of his work the author is in many instances quite unable to support his statements by authorities, and in his preface he frankly throws himself upon his readers' trust in his honesty and scientific purpose. So far as can be judged by one who has not been able, as has Mr. Ostrogorski, personally to study the problem at first hand, it may be said that the trust thus asked for has not been abused.

As regards the results achieved, it is difficult if not impossible to speak with much explicitness. Mr. Ostrogorski has traced with great care, and, it would seem, with unnecessary and unprofitable minuteness, the development of parties in the two great English-speaking countries. He shows that in its essential characteristics the development of party in both countries has been the same. Its result has been the formation of an organization decidedly rigid in character,

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and demanding a formalism in political action which is inconsistent with an orderly and progressive political evolution. Those in control of this organization regard it as an end in itself rather than as a means towards an end, and exercise a tyranny over both party members and political leaders which ultimately results in driving out of public life those men whose services can least advantageously be spared.

The remedy for these evils — the proof of which is forcibly set forth but cannot be given here for lack of space — our author believes is not to be found in any "fancy franchise" scheme such as minority or proportional representation, or in any legislative regulation of party primaries. He points out that the attempt to introduce a system of minority voting was, so far as one thing may be said to be the cause of any other thing, the cause of the formation of the Birmingham Caucus, which has since become the basis of the party organization of the British Liberal party, and endeavors to show, in what is said of American parties, that attempts at legislative regulation have not been successful, and cannot in the nature of things be expected to be successful.

Indeed, Mr. Ostrogorski doubts whether any merely mechanical remedy will be of much avail. It is, therefore, somewhat of a surprise to the reader to find in an appendix a full-fledged scheme of government or draft constitution, which seems to rely for its efficacy in diminishing the evil of party on what are, it cannot be denied, rather mechanical devices. These are, nomination by what has come to be called in this country the direct vote, the election to occur fifteen days after the nomination, and the candidacy for nomination to be the result of a declaration of candidature by the candidate, countersigned by a number of electors to be prescribed by law. These declarations of candidature are to be accompanied by a statement of the candidate's opinions "from which all mention of party is to be rigorously excluded."

The purpose of these various devices is, of course, to eliminate the party as a controlling influence in the nomination of candidates, thus permitting entrance to public life to persons who are at present excluded by the formalism and tyranny of parties.

In the election following the nominations thus provided Mr. Ostrol gorski makes provision for either preferential voting or proportiona representation, and confines the functions of electors to determining the membership of legislative bodies alone. All executive officers, under his scheme, are to be elected by these legislative bodies or appointed by the executive officers thus elected Finally, he proposes, in order to

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secure a continuing sense of responsibility to their constituents on the part of members of a legislative body, that the seat of every such officer shall become

> vacant before the expiration of the term of his mandate . . . if a petition for his removal is addressed to the President of the chamber, signed by a number of electors of his constituency, being not less than half of the number of electors on the register at the last election.

Such is the scheme proposed as a remedy for the evils of party tyranny. Its leading idea is to drive the party out of its present position as an intermediary between the government and the people. It may be said in criticism of it that few of the devices proposed have any particular novelty in their favor. Proportional representation and preferential voting have for a long time been subjects of discussion, while the direct vote and nomination by certificate have been tried more than once with varying degrees of success. Mr. Ostrogorski's really original contributions to the subject, if even they can be called original, consist in the proposition that in the nomination or primary elections no mention of the party affiliations of the candidates shall be permitted, and in the short electoral campaign period provided for. That any one who has had the opportunity which the author has had to study parties, can believe that such devices will have any permanent value, is almost incredible. That he should seriously propose them as remedies of any importance is absurd.

But Mr. Ostrogorski's book should not be adjudged by the jejuneness and inadequacy of the remedies proposed. For it is a veritable mine of information upon the subject of parties. Moreover, it presents a charming and carefully drawn picture of the social conditions both preceding and accompanying the rise of party government in the countries to which attention is directed. Particularly is this statement true of what is said in the early chapters of the book relative to the social and political conditions existing in England during the latter part of the eighteenth and the early part of the nineteenth century. Nowhere can be found a more enlightening sketch of this period.

This notice should not conclude without reference to the excellent work of Mr. Clarke, the translator of the original French edition of the work. It is difficult in reading the book to escape the impression that it was originally written in English.

F. J. Goodnow.

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The History of South Carolina in the Revolution, 1780–1783. By Edward McCrady. New York. The Macmillan Company, 1902. — xxvii, 787 pp.

Mr. McCrady's fourth volume deals with South Carolina during General Greene's command of the Revolutionary forces there. It is, therefore, a history of Greene's campaigns in the state. The task of that commander during this period was doubly difficult. Besides keeping the Br tish at bay he had to deal with the various independent corps which were under his command. The state's civil government had collapsed utterly when the British had crushed its armies. The governor, Rutledge, had gone to Philadelphia, declaring that he could serve his people better there than elsewhere. The enemy were so strong that it is doubtful if he could have remained six months in the state without being captured. There was no commissary, no system of taxation and no orderly militia organization. A number of brave leaders held commissions from the governor, and raised as many troops as they could, with which they had fought as they each saw fit. The chief of these leaders were Sumter and Marion. Greene assumed the command over them, along with the small force of Continentals which he brought with him. There then arose that controversy which usually appears when regular troops and militia are combined in one army. Greene had the trained officer's opinion of militia in general. He carried his campaigns through to victory, but there was always between him and the leaders of the state troops a certain amount of friction. Unquestionably Sumter did not yield himself readily to a subordinate command. Johnson's *Life of General Greene*, which was published in 1822, gave strongly Greene's side of the controversy. Mr. McCrady has taken the other side. He has spoken for the South Carolina troops.

In championing one side of this controversy there was danger that the author should lose the judicial attitude and become an advocate, and, unfortunately, he has not been able to escape it. His opportunity to make a very interesting book was excellent. He had a story full of stirring incidents, which opened with disaster, and gradually improved through a multitude of brave deeds to decisive victory. There was the opportunity to do justice to the South Carolina partisan bands in a calm way. The author had industry and opportunity to labor. But the results are not commensurate with the possibilities. The book, it is true, shows a vast amount of effort, most of which, however, has had to do with printed material. It shows, also, an admirable mastery of details, which, in turn, are elaborately and conscientiously put together.

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But there are faults which lessen its usefulness. The first of these is the recurrence of the attacks on General Greene. These attacks are so often repeated that one abates his confidence in the fair-mindedness of the historian. The book might not inappropriately be called a book to take Greene off his pedestal. He is made to stand out as a narrow-minded, peevish, jealous, hesitating, self-seeking, incompetent, and ungenerous man and officer. To the reviewer it seems that the weaknesses of Greene have been exaggerated after the manner of a lawyer pleading a cause. How, we may well ask, could such a man as we have here presented to us have won the object of his campaign where Lincoln and Gates, with far greater resources, made a failure? And how could such a man have settled into the walks of peace with the marked approbation of his countrymen, particularly with that of South Carolina?

A second fault of the book is an excessive desire to defend South Carolina. It brings to one's mind the strong anti-national feeling in the state at a later day. One is led to fancy that the author has let the spirit of the state's rights movement work backward so as to give a bias to his views of affairs in 1780–1783. This feeling seems to crop out in an underestimate of the part the central government took in the struggle against the British. It is perhaps responsible for the slight significance given to the Guilford campaigns, and for making Pickens, a South Carolinian, commander of the Americans at "Pyle's Hacking Match."

Another defect of the book is the prevalence of the chronological arrangement. There are no chapter headings, and there is but a slight attempt to group related facts in their natural relations. The result is that the treatment will not attract the general reader. It is not a pleasant thing to find fault with Mr. McCrady's histories. In all the South he is ahead of all other living historians in the devotion he has shown to the cause of state history. His four books have been wrought out with great pains, and they are valuable. It is a matter of regret that the last one of them should have been caught in the meshes of the Greene controversy.

JOHN S. BASSETT.

A History of Italian Unity. By BOLTON KING, M.A. 2 vols. xviii. 416, 451 pp. New York, Charles Scribner's Sons, 1899.

MR. NASSAU W. SENIOR tells us in his *Journal in France and Italy* that it was once proposed to him that he should write a review of

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Farini's *History of the Roman States*, but that he declined to do so without the aid of "blue books" and contemporary works. Certainly a humbler reviewer, essaying a similar task, ought not to reject this sort of assistance, were it not for the fact that Mr. King absolves him from the necessity. In his preface to the *History of Italian Unity* the author says that he has relied but little upon official publications or upon contemporary newspapers. Books — blue, yellow, or green — issued by Foreign Offices, he thinks, conceal what the historian most wants to know. They represent only "the stuff in the shop-window." It is the "indiscretions" of personal memoirs and letters which furnish the true material. Mr. King's book is therefore based upon some nine hundred works, chiefly of the latter character, which are to be found in the British Museum. This collection, he thinks, contains nearly all the published matter of importance.

We understand that the author gave some ten years to the writing of his history, and the book bears the marks of careful and judicial scholarship. One can say without hesitation that it is the best history in English of Italy from 1814 to 1871. This is not overlooking the excellent American works of Mr. W. R. Thayer (*The Dawn of Italian Independence*) and of Mr. W. J. Stillman (*The Union of Italy*). The former brings the subject no further than 1849. The latter, a briefer work, though carrying the narrative down to 1895, devotes less attention to the struggles of parties and political tendencies. Any one who wishes to learn the historical reasons which have made Italian unity a disappointment to many of its friends will find them here set forth in considerable detail. The author has packed into his two volumes a great deal of information, — often concisely stated, and requiring close attention on the part of the reader. The first volume covers the period before the Crimean War, and the second volume treats in more detail the remaining sixteen years.

As is well known, the present constitution of Italy is the same which was adopted in Piedmont in 1848 prior to the Union. We therefore regret that Mr. King nowhere satisfactorily explains how it happened that a constitution, originally made for a fraction of the peninsula, should have become the fundamental law for people so different in character as the inhabitants of the Papal States and the Two Sicilies.

The unification of Italy resembled that of Germany in that a northern nation, of more stable and sober character, became the predominant political factor in the united state. In Germany the Prussian constitution of 1850 did not become the fundamental law of the Empire. It would have been interesting, therefore, if the author had

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given us the reasons for the differing results in the two cases. He hints at the question (vol. 2, p. 92), when, in speaking of Ricasoli's ideas on the subject, he says: "The kingdom that was to be must take what was best in the laws and institutions of each province and from them evolve a better constitution," etc. (vol. 2, p. 92). Perhaps Mr. King would answer by saying, as he does (p. 210), that the Italian constitutions of 1848 were all more or less of a pattern, being modelled on the French constitution of 1830. In the absence of free political life and experience, the constitutions of 1848 were "mere bundles of constitutional maxims, based more or less on untested theories." In 1861 and 1870 it may have been thought, therefore, that the Piedmontese Statute represented fairly enough the constitutional views of the greater Italy. In fact, the growth of the Italian state was one of annexation, and a more scientific title for the history of the period might be "The Expansion of Sardinia" instead of the "Union of Italy."

In Switzerland, Germany and the United States, constitutional development was through the confederate to the more centralized federal form. Writers like Mr. Stillman deplore the fact that a similar process was not followed in Italy. But the government of Piedmont, except during the rare intervals of Democratic control, always held back from federalistic measures. Thus it received coldly the proposition of Pius IX in 1847 for a Commercial League similar to the German Zollverein; so also in the following year, when Rome and Florence were ready to agree to a scheme including a Federal army, a customs league and a common legal code. The author thinks that the Federal Diet would have been the scene of struggle for mastery between Piedmont and Naples, and in the end might have retarded unity. For the alternative plan of an Italian Constituent which "meant an assembly sitting at Rome, elected by universal suffrage," the ministry in Piedmont had no sympathy. Its policy was to gain for Piedmont the credit of a victory over Austria. It was not till after the participation of Sardinia in the Crimean War, and Cavour's appeal for Italy at the Congress of Paris, that the movement for unity began to take concrete shape. Then the work of Cavour's National Society in the several states prepared the ground for the annexations of 1859–60.

Italian unity was as much a triumph of diplomacy as it was a victory over contending political elements at home, and the second volume naturally gives some attention to the diplomatic history connected with the Crimean War and with the wars of Liberation of 1859 and 1866. In this Mr. King has added little to the information which we already possess, although he has outlined with considerable skill the

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story of the complicated negotiations. In view of the fact that much important material is still locked in the archives of Foreign Offices (the Duke of Saxe-Coburg in his memoirs characterizes the published correspondence of 1859 as "those totally worthless diplomatic dispatches"), the author certainly leaves with the reader a vivid impression of Napoleon's vacillating policy in Italy, so big in schemes for recasting the map of Europe, but so feeble or timid in execution.

In explaining the cession of Savoy and Nice to France, more might have been said of the efforts of Lord John Russell to prevent the transfer; and the same is true of an earlier episode, the special mission of Lord Minto to Italy in 1848.

Next in importance to the wars of Liberation was the winning of Sicily and Naples by Garibaldi. In this movement Crispi had an important part. But Mr. King is no Crispian as Mr. Stillman is. To him Crispi was a man careless of principle, "with little regard for political morality either in ends or means." He also differs from Stillman in disapproving of the plan of the Garibaldians to postpone the annexation of Sicily. "Their plan of saving the sovereignty of the people was futile in the face of the almost overwhelming eagerness of the Sicilians to be annexed" (vol. 2, p. 149).

In all these later events, Cavour, of course, is the principal actor; and if the writer does not make him quite the heroic figure of earlier historians, his characterization is probably more like the real Cavour. In general, the author's character sketches are excellent pieces of writing. Ricasoli, Rattazzi, Victor Emmanuel, Garibaldi, Mazzini, Antonelli, all stand out in his pages clear-cut and well defined. And we have seen nowhere a more lucid analysis of social conditions in Italy at the beginning and end of the period covered by the book than will be found in chapters 3, 4, 5 and 40 respectively. Unsolved questions, such as the relations of Charles Albert and the Carbonari in 1821, and that of Garibaldi, Rattazzi and Victor Emmanuel in 1862, are wisely reserved as appendices, and the conflicting evidence weighed and examined. The work concludes with an elaborate bibliography of twenty-five pages and an excellent index. The bibliography would perhaps have been more convenient had it been divided, and placed after the appropriate chapters in the body of the book.

American students of history will probably take issue with Mr. King for citing with apparent approval (vol. 2, p. 40) Victor Hugo's remark that Pisacane (the leader of the "Cagliari" expedition of 1857) "was greater than Garibaldi, as John Brown was greater than Lincoln." And on the same page the statement that the seizure by

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the Neapolitan government of the "Cagliari" "was contrary to maritime law" is too positive in view of the contrary opinion expressed by the law officers of the British government. The seizure was itself probably justifiable, even if the condemnation by the prize court of Naples was bad law.

J. F. Barnett.

Grand Rapids, Mich.

Ireland, Agricultural and Industrial. Edited by William P. Coyne for the Department of Agriculture and Technical Instruction for Ireland. Browne and Nolan, Dublin, 1901.

Throughout the nineteenth century movements for the relief of Ireland were in part political, in part economic. Since the failure of Gladstone's Home Rule Bill in 1886, the economic tendency has predominated both in the policy of the Imperial government and in those efforts of Irish patriots which have been successful. A strong desire has always existed to save the country by changing radically its government. The benefits which would be secured by a sweeping political change are, however, problematical, but the results of liberal and enlightened measures for economic and industrial development are matter of history, albeit of recent history. The most efficient of these measures, governmental and otherwise, belong to the last decade of the nineteenth century and the opening years of the twentieth, though they are based in part upon earlier attempts to help Ireland. Thus the land purchase policy of 1891, 1896 and 1903 was foreshadowed in the Land Purchase Bill of 1885. The present vigorous schemes to stimulate production and to promote agricultural and technical education are founded to some degree upon projects started a generation or two ago. None the less the last fifteen years mark the beginning of a new period in Irish industrial history. The Irish Agricultural Organization Society, founded in 1894, is revolutionizing the industrial situation by an extensive use of productive and distributive co-operation. The Congested Districts Board, created under the Land Purchase Act of 1891, introduced a new principle into the government's treatment of Irish affairs. The Department of Agriculture and Technical Instruction, organized in 1899, is unifying and expanding the work of various isolated agencies, and introducing new methods based on an intelligent study of Ireland's peculiar needs and of the treatment of industrial problems abroad.

Ireland, Agricultural and Industrial, has grown out of this Department's work. It is an expansion of the official hand-book dealing with

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Ireland's chief economic resources prepared in connection with the Department's exhibit at the Glasgow International Exhibition in 1901. The aim is to

> give an unbiassed account of Ireland's economic and industrial position at the dawn of the twentieth century, with some statement of the historical events that have led up to that position.

The editor, Mr. William B. Coyne, Superintendent of the Statistics and Intelligence branch of the Department, has sought to carry out this aim by presenting a collection of articles and reports by competent writers.

These articles fall naturally into several groups: Resources, Population, Industries, Means of Transportation, Banks, Agencies for Education and Industrial Betterment. In the first group are treatises on Topography, Geology, Minerals and Building Stone, Soils, Climate, Flora, Animals. The essay on the Economic Distribution of Population is an extract from a paper prepared for the Royal Statistical Society by Mr. Charles Booth. There are accounts of various industries, accompanied by an admirable Statistical Survey of Agriculture prepared by the editor. Transportation facilities by railway and by canals and rivers are described, and statistics of cost of construction and operation of land and water ways, and of the volume of traffic are given. Banks fall into three classes — Joint Stock Banks, Savings Banks, and Co-operative Credit Associations. The material bearing on agencies for Education and Industrial Betterment includes: first, reports of societies, old and new, comprising four strictly agricultural organizations besides the Flax Supply Association and the Irish Agricultural Organization Society; second, accounts of societies and institutions distinctly educational, with articles on the general subjects of Agricultural and Scientific Education; third, reports of the Congested Districts Board and of the Department of Agriculture and Technical Instruction.

The editor and authors have made easily accessible much valuable material of precisely the kind that is usually very difficult to secure. It seems almost ungrateful under these circumstances to demand still more. But may not the reader reasonably ask for a statement of the working of the Land Purchase Acts adopted in 1891 and 1896? The editor's reasons for omitting the question of land tenure are, as he says, quite obvious in so far as the measure now pending is concerned. Yet might not a statistical table be included to show how far land has passed into the ownership of those who till it, without encroaching

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upon that political territory which the editor wisely and successfully avoids? Further should not an account of the roads have accompanied the articles upon railways and canals?

The interest of the work is focussed in the new industrial movement. Earlier efforts to set Ireland on her feet were ineffectual because they did not put the means for industrial improvement within the reach of the mass of the people. Several associations beginning with the Royal Agricultural Society in 1841 aided local societies, held fairs and offered prizes to stimulate improvement in the variety and quality of products: agricultural instruction was provided on model farms, and at times by travelling teachers and in connection with national and workhouse schools. But the average peasant with his few poor acres of rent-laden land, even if he were near enough to fair or centre of instruction to know of their existence, could not command stock, seed, fertilizers and implements to improve his condition, and had not access to a market for his produce even if he had a surplus over his household needs. At various times efforts were made to provide the people with industrial capital, but they lacked means to become far reaching and long enduring.

The new movement is changing all this. The Department of Agriculture and Technical Instruction, called into existence by an enlightened government's response to Irish appeals, has full powers and considerable means with which to carry out extensive plans for technical education and industrial betterment, to do for all Ireland what the Congested Districts Board is doing for a part, and to do more besides. A glance through the articles on industries and through the reports of Board and Department will show how liberally their powers and duties are construed. The co-operative movement promoted by the Irish Agricultural Organization Society is young but very flourishing. The first Raiffeisen bank was established in 1894; in 1901 there were 103. The organization of co-operative agricultural societies began in 1889. The I. A. O. S. reports in 1901, 236 dairy, 106 agricultural, and 21 poultry societies, besides a trade federation of dairy societies which sells their produce in British markets. The societies are in sound financial condition, the amount and proportional profits of production have increased, and Irish commodities are securing an honorable reputation in the market. All this seems to justify Mr. Plunkett's assertion that the Irish people have a genius for associative production.

The writers of various sections of the book have in the main chosen their material wisely and presented it clearly. Some of them, however, leave the reader wishing for additional definite details. It is, for

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instance, surely pertinent to ask the Flax Supply Association what proportion of the money loaned to scutching mills was returned, and what profit accrued to the borrowers from the loans. The Congested Districts Board Report would be more valuable if figures were given to show the results of their policy of emigration and consolidation. We would also like to know more definitely how the co-operative societies are managed. The volume contains many admirable maps, tables, and diagrams, yet some articles fail to put in tabular form figures given for comparative study. A second edition should include a map of the railways of Ireland, and add an account of railway extension under the government grant of 1891.

The book is pervaded by an optimistic spirit that is healthy and full of promise for the future. The men whose work is modestly chronicled here realize the magnitude and complexity of their problem, and cheerfully acknowledge the difficulties and discouragements that have thus far arisen. Yet they believe firmly in the resources of Ireland and the capability of her people; they are confident that it is possible to raise the standard of living, to change the movement of the population from decrease to increase, to secure the basis of national thrift and prosperity without which there can be no political stability, to make Ireland an important factor in the economic life of Great Britain instead of her greatest problem.

The book is a quarto containing 511 pages, well printed upon specially prepared Irish paper by Browne and Nolan of Dublin. It has a full index, is illustrated with excellent plates, and decorated with designs from early Irish art.

ELLEN SCOTT DAVISON.

The Social Unrest: Studies in Labor and Socialist Movements. By JOHN GRAHAM BROOKS. New York. The Macmillan Company, 1903. — 394 pp. $1.50 net.

THE warm welcome given by the press and the public to these essays of Mr. Brooks's is well merited, for no more useful study of the absorbing industrial and social problems of twentieth century America has appeared in print. The book is enlightening to all classes of citizens, and especially so to business men and students — to the business man because the author presents the problems of business life in their wider social aspects, and to economists because he offers the new knowledge that can be gained only by actual contact with men of affairs. As Mr. Brooks truthfully remarks in his introduction, —

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an academic student, who has read never so faithfully all the books, has to learn his entire lesson over again by contact with the actual concrete struggles of unions among themselves and with their employers. During six years of weekly economic lectures before a trade-union audience, I learned that any trade-union literature accessible was upon the whole misleading.

True, the unions publish their weekly and monthly trade journals, many of which are edited with a creditable standard of thought and expression; but these publications are not generally accessible, even in the largest libraries. It is only four years ago that Columbia University, in advance of other colleges, set out to gather files of the hundred odd leading labor journals. A few special students of practical economics may be familiar with this labor literature, but most citizens are ignorant even of its existence. "Only in rare instances have our business men, or the public generally, honestly tried to know what the immense sacrifices behind the trade union really mean," writes Mr. Brooks (p. 372). How many teachers (teaching possibly the dogma that laborers can obtain no greater remuneration by combination than they would inevitably receive through the competition of employer with employer for their services) or professional men who smile at the caricatures of the "business agent" or "walking delegate" that are continually put before them by the press, realize the meaning of the word "victimized," which to the workingman explains the *raison d'être* of the business agent? Mr. Brooks, of course, knows this elementary fact of trade unionism, and many other facts that the books read in the "higher circles" do not give. And he has been unusually successful in interpreting and setting forth the aspirations of the wage-worker. Take, for example, his report of an interview with a retired Cape Cod captain, who, after considering the usual family consumption in his community sixty years ago and at the present time, was moved to this conclusion:

> My father wanted fifteen things. He didn't get 'em all. He got about ten, and worried considerable because he didn't get the other five. Now I want forty things, and I get thirty, but I worry more about the ten I can't get than the old man used to about the five he couldn't get.

Could any pedantry of language or of statistics, asks Mr. Brooks, tell more truth or better truth than this about the social unrest? (p. 97).

Numerous pregnant sayings like the above, gathered by Mr. Brooks at first-hand from his acquaintances among employers and business men all over the United States, not only make an exceedingly readable and realistic book, but throw much light upon many of the unsolved

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problems of our time. These men do not ordinarily tell all they know "for publication." Mr. Brooks mentions a trust organizer who

> has published valuable opinions on the subject of the trust. In private I heard him analyze the actual dangers of the trust with a searching skill that I have not seen equalled. I asked him why he put none of those views into print. He replied: "Those are things a wise man doesn't say in public. I am not advertising the weakness of the trust."

Mr. Brooks does not devote a formal chapter to the consideration of schemes of social amelioration or remedies for the "social unrest," but his entire work is an argument for a broader point of view. He emphasizes the need of additional legislation along the familiar lines of factory acts and corporation publicity. "The passion of the democracy," he says, "has the perfectly rational aim that is expressed in the term 'multiply life's chances,'" — thus, for example, give the breaker boys in the Pennsylvania mines, and the children in Southern cotton mills and on the streets of Northern cities, a "chance" by stopping child labor. And as for trade unionism, that must be recognized as a permanent institution, and treated in a spirit of liberality, for the alternative will be socialism.

> The enmity of capital to the trade union is watched with glee by every intelligent socialist in our midst. Every union that is beaten or discouraged in its struggle, is ripening fruit for socialism. . . . The employers have only to convince organized labor that it cannot hold its own against the capitalist manager, and the whole energy that now goes to the union will turn to an aggressive political socialism. It will not be the harmless sympathy with increased city and state functions which trade unions already feel; it will become a turbulent political force, bent upon using every weapon of taxation against the rich (pp. 39–40, 64).

This is a warning that might now be emphasized by reference to the remarkable labor movement under way in England as the direct result of the House of Lords decision in the Taff Vale case.

The book may be commended as a candid, impartial, and eminently interesting review of present economic and political tendencies, — one that cannot fail to exercise an altogether favorable influence upon public sentiment.

A. F. Weber.

New York Department of Labor.

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Die Oekonomische Entwickelung Europas. Von MAXIME KOWALEWSKY. Aus dem Russischen übersetzt von Leo Motzkin. Band II. Die Feudalisierung des Grundbesitzes in ökonomischer Beziehung. Berlin: Prager, 1902.—466 pp.

In the first volume of this elaborate work Professor Kowalewsky handled the troublesome question of the origin of property in land. In this second instalment he addresses himself to the feudalization of property in its economic aspect. In the first chapter he considers the formation of great estates in the Frank Empire in the eighth and ninth centuries, acknowledging here as elsewhere his indebtedness to the great work of Inama-Sternegg. The forces making for the development of lay and ecclesiastical *latifundia* were social rather than racial, the prevalence of natural economy involving the reward of labor by land and the growth of political feudalism at the expense of the central administrative system. Later came the need for protection against the Norman and Saracen invasions and the concentration of movable capital in the possession of ecclesiastical establishments.

In England as on the continent the Church, equipped with the Roman legal idea of ownership and supported by the crown, succeeded in forming great estates at the expense of the small proprietors holding under customary law. But until the tenth century, when royal grants of considerable extent are frequent, these great estates grew by the absorption of very small parcels of land. From this circumstance Professor Kowalewsky argues that large estates were not characteristic of the oldest Anglo-Saxon land-holding and that therefore the primitive existence of free land-possessing communities is quite possible. The argument is not helped by the chronological absurdities noted below. The laity followed quickly in the way opened by the church. The pretext of founding convents, the usurpation of life grants from the king, the system of lordship made compulsory in the ninth century but resembling in its effect the continental commendation, all contributed to the formation of the great estates of the lay nobility. Thus before the Norman Conquest England was, from the economic point of view, effectively feudalized.

In his third chapter Professor Kowalewsky returns to the charge in defence of the old Germanic mark. From the seventh to the ninth centuries he finds communities of free and dependent persons enjoying common rights over undivided non-arable land. These communities are sometimes free villages; and this is taken to show that such common rights do not derive from the good will of the lord. There is

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evidence also that when the lords began to clear forest land they first obtained the consent of such communities as had rights in the forest. These considerations, in connection with the extremely restricted nature of the ownership of land under the customary law, are taken to indicate some primitive form of family or communal ownership.

There follows an elaborate exposition of the manorial system in France from the sixth to the eleventh centuries. The existence of free tenants not burdened with contributions in kind nor manorial services, nor subject to manorial jurisdiction, is emphasized. These are regarded as the representatives of a formerly numerous class of free men who had held their land either in private or communal ownership. The system of co-aration under which each peasant received a share in the arable proportioned to the number of beasts he contributed to the great plough-team, is not general in France until the close of the eleventh century. This is to be inferred from the unit of land measurement which up to that period is the *bonnier*, an area for which four modi of seed-corn sufficed, practically answering to the Roman *jugerum* The change to the carucate, the area that could be ploughed by a full team in one year, is not complete until the twelfth century. The manorial system of three-field husbandry with co-aration and proportionate allotment of the arable, is, it may be inferred, of relatively late origin.

Professor Kowalewsky endeavors to show in his fifth and sixth chapters that free villages still existed in France in the eleventh and twelfth centuries, and discusses the nature of common rights in the two following centuries, when changed economic conditions caused these hitherto indefinite rights and relations to be determined by law. Here he reaches the conclusion that these common rights have a double origin; immemorial custom on the one hand, and the consent of a proprietor on the other. In the former case, no payment could be asked for the exercise of rights derived from original communal proprietorship. In the latter case, however, although practice soon hardened into right, it was a right for the exercise of which a return might properly be demanded.

The way being thus prepared by a discussion of manorial origins, a long chapter is devoted to the evolution of villeinage (Hörigkeitsrecht) in France. By the thirteenth century most manorial tenants, whether originally emancipated slaves or freemen fallen into dependence, were on a common level, attached to the soil and owing services and contributions to their lord. But in the course of the twelfth century, owing to the growth of population and the resulting increase in

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the demand for land, it had been found more profitable to exchange a system of compulsory labour for one of leaseholds against a money rent. This change was promoted by the readiness with which both lords and tenants resorted to money composition and by the survival of a form of leasehold which had originally been the Gallo-Roman precarium.

At the close of the twelfth century the plan of emancipating whole villages was adopted. The elder system of protection and dependence having served its purpose was being discarded in favor of new contractual relations. The church contributed to this change by the diffusion of notions of freedom and justice, but it did not, as Picot and some others contend, play a leading part in it. As Sée has shown the important causes of emancipation are all economic. An increase in population caused the value of land to rise and thereby indirectly lowered the returns from servile labor rewarded with land. For this reason lords were ready to set their dependants free in order to recover their land and put it to more profitable uses. The arrangement, accordingly, was one of reciprocal benefit, the peasant got his freedom, the lord his land, and when, as often happened, the emancipated peasant remained on the land on new terms, the whole process was no more than the substitution of a money rent for services and contributions in kind.

A chapter is next devoted to the exceptional conditions obtaining in Brittany and Belgium. The variations from the normal development just outlined, which occur in these regions, are explained by the varying density of population, foreign invasions and racial peculiarities. In Brittany the characteristic note is the persistence of some form of the tribal system, in Belgium, the density of the population and the early development of industry and commerce.

In a final chapter the manorial system in Normandy is treated in detail with the particular purpose of illustrating conditions in England after the Norman Conquest. The establishment of the Normans in Gaul did not result in the displacement of the actual cultivators of the soil, although great proprietors were dispossessed and crown lands taken over by the duke. The normal family holding was the carucate, the area which could be worked by a heavy plough with a team of eight oxen, commonly sixty acres. But since this was divisible at inheritance, a holding proportioned to a four ox team was more general. The peasants were required to plough the lord's land whether they possessed the full complement of beasts or not. Under these circumstances the land in the open-fields was allotted after the ploughing in

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proportion to the number of beasts contributed to the common team. This system seems to have been brought by the Normans from their earlier homes and, once established in Normandy, to have extended itself beyond the borders of that province.

At the time of the conquest of England the *terra servilis* of a Norman estate was occupied by the unfree and the villeins. The latter, although attached to the soil and subject to certain services and payments were personally free. Their position was the result rather of social conditions than of status. Further there were the *bordarii*, so called from their small holdings bordering on but not part of the open-fields, the *censuarii*, the *hospites* and the *vavassores*. The land of all these was separated from that of the villeins and the unfree. Thus the Norman manor was an artificial union of various communities and private ownerships some of recent, others of very ancient origin. The villeins represent an earlier population of free land-holding communities. The introduction by the Normans of the plan of co-aration with an eight ox team, by establishing a fixed relation between the size of the allotment and the contribution to the common team, tended to do away with the older system of equality and communal possession. Private ownership, on the other hand, existed in Normandy from Roman times. The fact that the villeins were secured by custom in their right to the use of common meadow, pasture and forest, while other tenants required the lord's leave for admission to such rights, is regarded as evidence that these common lands were originally the possession of free communities now fallen into dependence.

The present volume shows all the defects which one is coming to regard as inevitably attending the use of the "comparative method." For one thing, there is a carelessness in dealing with facts which amounts at moments to recklessness. The church at Rochester was not "more than a century old" in A.D. 604 (p. 45). Where in Domesday Book does Professor Kowalewsky find the record of holdings in the county of Northumberland (p. 65)? There were no dukes of Champagne at the end of the twelfth century (p. 122), that title was extinct in the tenth century. Beaumanoir lived and wrote in the thirteenth, not the twelfth century (p. 248 and again pp. 456–457). Frederic II's son Henry is improperly described as emperor (p. 364). Lanzenbesitz does not correctly translate *tenementum lorice* (p. 440). The Feast of S. John the Baptist falls in June not July (p. 447). Uncorrected printer's errors testifying to the same haste and carelessness are numerous, cf. pp. 51, 65, 229, 246, 272, 301, 305. Professor Kowalewsky is also capable of misreading his printed authorities. On

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p. 47 he remarks that S. Benedict (he seems to mean Benedict Biscop) first introduced the Augustinian rule into England. His authority is a simple passage in Elham's History of the Monastery of S. Augustine to the effect that Wilfrid first taught the English monks to observe the rule of S. Benedict. Again (p. 49) he has misread the printed text of Eddius Stephanus and describes Wilfrid as converting the East Saxons and receiving land in "Skolerien," whereas he might have learned from the marginal note that "Scolesiae" was Selsea, and from any atlas that Selsea is in Sussex. But these are venial sins in comparison with Professor Kowalewsky's naïve ignorance of the chronology of English History. He writes of Edred's successor Ethelwulf (p. 53). And again "Grössere Schenkungen finden wir erst wieder zur Zeit Eadwis, d. h. zu Beginn des 10. Jahrh., als z. B. im Jahre 900," etc. (p. 61). Finally Ethelwulf and Athelstane are described as the successors of Ethelred (pp. 62, 64).

Were there space for a fuller discussion, various other points might be raised, notably a very questionable interpretation of evidence on p. 206. The value of this useful work, on the other hand, should be sufficiently apparent from the brief summary of its contents given above.

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Geschichte der Nationalokonomie. Von DR. AUGUST ONCKEN. Erster Theil: Die Zeit vor Adam Smith. Leipzig, C. L. Hirschfeld, 1902. — 8 vo, 516 pp.

ALTHOUGH some twenty-five volumes have already appeared in the *Hand- und Lehrbuch der Staatswissenschaften* started by Kuno Frankenstein and continued by Max von Heckel, the present volume on the history of political economy appears as number 2 in the series. There have been so many so-called histories of political economy, that it is interesting to observe how each new-comer in the field treats his subject and differentiates his work from that of his predecessors.

Professor August Oncken, of the University of Bern, has for many years been conducting original researches in one part of the vast domain of the history of economics — namely, the Physiocrats and their connection with the history of French thought in the eighteenth century. Some fifteen years ago he published his admirable monograph on the maxim "Laissez faire et laissez passer;" a year or two later he edited the collected economic works of Quesnay, and since then he has

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written several articles on the early history of Physiocracy. It was quite natural, therefore, that the editor of the series should have chosen for the author of this new history the one German writer who has been making independent investigations in the field.

It may be confessed at once that this new work contains a distinct contribution to the subject. In no other book are the Physiocrats treated so sanely or so adequately. The whole subject is freed of the absurd errors with which it has been encompassed by Dupont de Nemours, by Daire, and by the French orthodox school, — errors which are still found in the English histories as well. Gournay is relegated to his proper position as a liberal Mercantilist, Mirabeau is treated with the fulness that he deserves, and an interesting account is given of the Marquis d'Argenson. There is, however, even here, one serious criticism to be made — the under-emphasis put upon Turgot. In his anxiety to show that the accepted views as to the Physiocrats are largely erroneous, Professor Oncken devotes entirely too little attention to the real merits and influence of this great French thinker. His picture of Turgot is, in fact, well nigh a caricature.

Unfortunately, in his efforts to be just to the Physiocrats, Professor Oncken is unjust to their predecessors. Although this is only the first volume of the work, taking up the period before Adam Smith, about half of the entire volume is devoted to the Physiocrats and to their immediate precursors in France. Moreover, as Professor Oncken everywhere attempts to bring the economic ideas into some sort of relation with the economic institutions, his account of the mediaeval doctrines and of the Mercantilists is so painfully inadequate that all sense of proportion is lost. In all this first half of the book there is not only almost nothing new, but much that is better treated elsewhere. The greatest defect of the book, however, is the almost complete passing over of the English literature. In this volume of over five hundred pages, not more than twenty-five pages are devoted to England, and of these pages a large part deal with institutions rather than with authors. When we remember that during the seventeenth and the first half of the eighteenth centuries the literary output of England on economic subjects was, to put it very mildly, ten times as great as in any other country, it seems as if the time had come for an historian of political economy to do something more than to copy the few hints thrown out by Roscher over forty years ago. This ignorance of English economic thought has led our author to commit a serious error even in his chosen field of Physiocracy when he tells us that there were no Physiocratic writers in England. Pro-

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fessor Oncken is evidently unacquainted with the works of William Spence which led to the controversy with Mill and Torrens, or with the other books advocating the French doctrines like *The Essential Principles of the Wealth of Nations*, published in 1797, or the very respectable *Sketches on Political Economy, with an Exposition of the Leading Tenets of the "Economists,"* published in 1809.

Before anything that approaches an adequate history of political economy can be written, a careful study will have to be made of the wealth of material contained in the scores — nay, hundreds — of books on economic topics published in England between 1615 and 1776. Almost every year brings us some new reputed father of political economy. Formerly it was Adam Smith; then Jevons told us it was Cantillon; another has ascribed the honor to Petty; still another to Yarrington; and, to pass over all the earlier reputed fathers on the continent, Professor Oncken now tells us it was Quesnay. When the true history of economics comes to be written, it will be recognized that the stream of economic thought which converged in Adam Smith flowed in many a little rill, and that until we attempt to trace most of these to their sources in the English literature we shall not have begun to solve the problem. The history of political economy is still to be written.

EDWIN R. A. SELIGMAN.

Lectures on the Theory of Economics. By FREDERICK CHARLES HICKS. Cincinnati, University of Cincinnati Press, 1901. — xii, 289 pp.

THESE lectures treat of value, production and distribution; and are intended, apparently, for students who, having completed an elementary course, are ready to wrestle with the complexities of advanced economic theory. Part I, entitled "Prolegomena," describes briefly the character and method of economic science, and then deals with fundamental concepts, the law of value, and the processes of competition and monopoly. Parts II and III are respectively devoted to production and distribution. Exchange is subsumed under the latter rubric, while the consumption of wealth is declared to lie "outside the scope of economic investigation, except in so far as it affects production and distribution."

Economics is defined as "the science that treats of human activity in its relation to the pursuit of the satisfaction of wants;" and the question might well be raised why consumption should be excluded, under the terms of this definition, except as it affects production and distri-

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bution. Wealth is defined as anything "that possesses the power of want-attraction," a statement that is unobjectionable, but in no way preferable to most of the current definitions. Value is said to be "the amount of the power of want-attraction possessed by any commodity," and is not identified with power in exchange. It is possible to construct a consistent theory upon this basis, but there are decided disadvantages in abandoning the other definition. In general, the book creates the impression that the author is too ready to invent a terminology of his own, rather than to consider the possibility of conforming to accepted usage. For doing so, he can, doubtless, cite plenty of precedents; but it is probable that economic thinking in America has suffered in recent years from this very tendency. When every writer insists upon using a language of his own, the usual result is a confusion of tongues — and of thought.

Professor Hicks has done well in devoting nearly a whole chapter to a careful examination of competition and monopoly as factors in economic society. It is desirable for the student to understand that the former is never absolutely free, and that the latter is seldom or never complete. But the author gives to monopoly a meaning so broad as to detract from the value of this part of his discussion. He says:

> From the standpoint of the individual, monopolization is the concentration of economic strength, which enables one to oppose the rival interests that are an obstacle to the satisfaction of his wants.

This definition would make every man who manages to maintain his foothold in the business world a monopolist; and would oblige us to find some other term to apply to the man who gains the power to restrict the supply of a commodity and to fix the price at the point of highest net return. A day laborer who "manages to oppose the rival interests that are an obstacle to the satisfaction of his wants," may be a monopolist; but he is probably never aware of that fact.

The presentation of the theory of value follows somewhat new lines, but the results are not equally novel.

> Price, which is value expressed in terms of a measure, falls when competition prevails, and rises when monopolization prevails, being, in any given case, the resultant of these opposing manifestations of activity.

The cost of production sets a point below which competition will not permanently lower prices, but Professor Hicks offers no analysis of the elements that enter into cost. Monopolization, upon the other hand,

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will not raise prices beyond the figure that leaves to purchasers an inducement to produce the commodities that they offer in exchange. "Healthy trade," he concludes, "depends upon a proper balancing of the competitive and monopolistic influences."

In Part III the most satisfactory chapters are those devoted to "The Basis of Distribution" and "The Shares in Distribution," which deal with aspects of the problem that receive but scanty consideration in most treatises. The subsequent chapters upon rent, interest, profits and wages, present views that have gained a strong following among those who are eager for a complete reconstruction of economic theory. The Ricardian doctrine of rent receives rough treatment, but it seems to be Walker's version of the theory that comes in for most of the thwacks, and it is probable that the substance of Ricardo's teachings will survive the onslaught. The amount of each share in the product of industry is shown to be the value of the service of the corresponding factor of production, and this value is explained by examining the conditions of demand and supply. Such an approach to the problem is highly satisfactory, but the results of the discussion prove convincing or unconvincing according to one's zeal for the reconstruction of the science. Even the most conservative reader, however, will find something that is stimulating and suggestive in Professor Hicks's presentation of the central problem of economic theory.

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Der Moderne Kapitalismus. Von WERNER SOMBART. Leipzig, Duncker und Humblot, 1902. — 2 vols., 669, 646 pp.

CAPITALISM, in Sombart's sense of the term, is the economic system in which the controlling factor is the capitalist-undertaker, who seeks by purchase and re-sale of commodities or services to reproduce with a profit an original fund of wealth. It is sharply contrasted with handicraft economy, since it is the aim of the craftsman merely to secure a "fair living" as a reward for his personal exertions. What Sombart considers fundamental in modern economic history is the displacement by capitalism of the economy of the craftsman. Through study of the genesis and progress of capitalism he endeavors to find unity in the complicated phenomena of economic evolution.

Sombart pronounces untenable the natural view that capitalism originated in the growth in wealth of certain branches of mediaeval trade and the gradual subjection of the producer to the trader. An imposing

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mass of historical data is employed to prove that mediaeval trade was carried on upon a scale too small to result in any considerable accumulation of wealth. Moreover, the attitude of the mediaeval trader was that of the craftsman. He aimed to secure a fair living as a compensation for his efforts and risk. Accordingly, it is improbable that the capitalist of the later centuries was the direct descendant of the merchant of the guild.

Before capitalism could arise, wealth had to exist in large masses, and in the hands of persons who would use it for gain. The accumulations of the Church and of the feudal barons were sometimes extensive, but they were held as a reserve for consumption. With the introduction of money payments a class of burgher parasites — usurers, farmers of revenues — arose, and rapidly attained to great wealth. The Crusades furnished rich opportunities to Italian purveyors; and the growth of towns in the later middle ages resulted in a rise in land values which enriched the original families of the towns. The exploitation of colonies, first in the Eastern Mediterranean and later in the East and in America, brought great wealth to the more enterprising states of Europe; and the profits of the slave trade resulted in further accumulations. These ill-gotten gains, in Sombart's view, afforded the material basis for capitalism. The origin of the capitalistic habit of thought still requires explanation. Sombart conjectures that the insatiate greed for gold which was prevalent after the Renaissance, developed in the calculating mind of the burgher that unlimited desire for profits which characterizes the capitalist.

Whatever fault economic historians may find with this account of the genesis of capitalism, no one can criticise adversely Sombart's description of its slow but irresistible progress during the last century. This part of the work is chiefly a description of the changes that have taken place in Germany since 1850, and will prove invaluable to future generations of economists.

The second volume is ostensibly devoted to the theory of capitalistic evolution, but is in reality little more than an attempt to classify the more important business practices of the present. A theory of consumption is indeed attempted, but it amounts to nothing more than a very detailed proof of the self-evident fact that consumption is increasing and becoming more refined. The third book of the volume is entitled Die Theorie der gewerblichen Konkurrenz, but it contains nothing which one could call a satisfactory discussion of competition. What it really gives is an analysis of the economic advantages of the capitalistic mode of production as compared with the methods of the

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handicrafts. The author thinks that this is vastly superior to the common-place discussion of the advantages of the large business unit over the small one. This is, of course, natural, since German economics is at present expending so much of its energy upon the antiquated "handicraft problem." But as a result Sombart's scheme offers no place for a treatment of what an American would consider the far more important problems of industrial concentration and monopoly. This may, however, be reserved for the later volumes, of which the author promises several. The only part of the book which is of much interest is the refutation of the theories of those who expect a revival of the artistic handicrafts. Here Sombart is on his own ground, since common sense is required rather than theoretical acumen.

On the whole, the work is one of the most valuable of recent contributions to economic history. Unfortunately, it is excessively prolix, even for a German work, and its spirit is often irritatingly egotistical. "All that has been written on this subject is so unsatisfactory that it will not even serve us as a point of departure," is a characteristic assertion. Plagiarism and injustice stamp the criticism of Roscher, "that eminently brilliant man, through whom German economics lost a whole life-time." (II., 188.) It is a pity that some one who speaks English was not secured to read the proof of the numerous English quotations, almost every one of which contains some unfortunate mistake. A satisfactory table of contents and an excellent index enhance considerably the value of the work.

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RECORD OF POLITICAL EVENTS.

[From November 10, 1902, to May 25, 1903.]

I. THE UNITED STATES.

FOREIGN RELATIONS. — An important incident under this head was the conclusion in January of a treaty with Great Britain for the settlement of the **Alaska boundary dispute**. The treaty provides for the appointment of a mixed commission, to consist of three jurists or experts selected by each party, to whom shall be referred all questions arising out of the interpretation of the treaty of 1825 between Great Britain and Russia, and the treaty of 1867 between the United States and Russia. The treaty was ratified by the Senate in February, and Senators Lodge and Turner and Secretary Root were selected as the commissioners on the part of the United States. On the part of the British government, Lord Chief Justice Alverstone of England, Sir Louis Jette, retired judge of the Supreme Court of Quebec, and Sir John Douglas Armour of the Supreme Court of Canada, were appointed as commissioners. — In November the decision in the **Russian Seal Cases** was announced by Dr. Asser, the Dutch jurist, to whom the question had been submitted for arbitration by mutual agreement in 1900. The dispute grew out of the seizure of four American whaling vessels in the Behring Sea in 1891, by a Russian cruiser. In all four cases Russia was condemned to pay the United States damages with interest, and the principles were laid down (1) that a warship of one nation is not entitled to pursue beyond its territorial waters the vessel of another nation guilty of illegal conduct within those waters, and (2) that damages in such cases should include the prospective catch of which the captured vessels had been deprived. — A matter of considerable popular interest was the conclusion of a **reciprocity treaty with the Republic of Cuba**, after a failure in the Senate of the House bill for the reduction of the tariff on sugar imported from Cuba into the United States (see last RECORD, p. 721). The treaty as first published in December, provided for a twenty-five per cent reduction on all Cuban products imported into the United States, in return for which the United States was to be favored by reductions ranging from twenty-five to forty per cent on certain articles exported to Cuba. On March 28 the treaty was ratified by the Cuban Senate by a vote of 12 to 9, and without amendment. In the United States Senate the treaty was favorably reported from the Committee on Foreign Relations on January 15, but with an amendment

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designed to prevent the granting of tariff concessions on cane sugar to any other country during the existence of the treaty with Cuba. On account of the filibustering tactics of Senators Morgan and Quay (see CONGRESS), no action was taken on the report by the Senate at the regular session. At the extra session of the Senate, convened March 5, the treaty was ratified, but with an amendment providing that it shall not be operative until approved by Congress. — At a called session of the Cuban Senate, the treaty as amended was ratified March 26, and the formal exchange of ratifications took place at Washington, March 30. — In November a **reciprocity treaty with Newfoundland** was concluded. The treaty secured to the United States certain fishery privileges in the waters of Newfoundland, and provided for the reciprocal admission free of duty into the ports of each nation certain articles exported from the other. It also contained a provision against the imposition of a differential tariff in favor of goods entering Newfoundland from England or English colonies. The Senate took no action on the treaty. — Secretary Hay's **Roumanian Note** (see last RECORD, p. 720) has led the government of Roumania to announce that the rights of citizenship are to be accorded to Jews residing in that country. Important changes in the **diplomatic corps** at Washington were the appointment of Hon. Michael Herbert to succeed Lord Pauncefote as Ambassador from Great Britain; the appointment of Baron Speck von Sternberg to succeed Baron von Holleben as Ambassador from Germany; and the appointment of M. Jusserand to succeed Jules Cambon as Ambassador from France.

CUBA AND THE DEPENDENCIES. — The general situation in **Cuba** has been favorable. At the opening of Congress on November 3, President Palma announced that the treasury balance exceeded one and a half million dollars. The estimated revenue of the island was $17,513,800, and the expenditures $14,899,967, the second largest item being $3,721,970 for education. On December 1, the opening of sixteen ports to foreign commerce was announced, and in February a naval and coaling station was ceded to the United States. — In **Porto Rico** noteworthy industrial and political progress has been made. A report made by the Bureau of Statistics in March shows that Porto Rican trade with the United States has increased fivefold since the beginning of American occupation. Important legislative measures of the recent session of the Porto Rican legislature were acts for the transfer of lands to the United States for naval purposes, for establishing a State University, and for creating a board of medical examiners. — In **the Philippines** the economic and industrial situation has been unfavorable, mainly on account of the failure of the rice crop, the loss of about ninety per cent of the draught animals (carabaos) by disease, a widespread cholera epidemic, and the decline in the price of silver. As a result of some or all of these causes, great **distress and famine** prevailed in certain parts of the island during the autumn and winter. The govern-

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ment undertook to provide relief by readjusting the official ratio between gold and silver, and by purchasing large quantities of rice to be sold to the sufferers at cost price. An appeal was also made to Congress for an appropriation of $3,000,000, which was promptly made. As a further measure of relief the President issued an order permitting foreign vessels to engage in the Philippine coasting trade. All organized resistance to the authority of the United States has ceased except among the Moros of Mindanao, where it still exists in a sporadic form. By an order of March 25, General Leonard Wood, formerly governor-general of Cuba, was directed to assume command of the military department of Mindanao. Recently the Philippine constabulary has been attacked by ladrones in certain districts, and a campaign has been undertaken against them. The negotiations for the **purchase of the friars' lands**, which were suspended at Rome July 24 (see last RECORD, p. 723), were resumed in Manila November 28 between Governor Taft and Archbishop Guidi, the papal delegate. No agreement has yet been reached, — The report of the **Philippine Commission** in January recommended the establishment of the gold standard, the reduction of the duty on goods imported from the islands into the United States to 25% of the Dingley rates, the establishment of banking corporations with power to issue circulating notes, the repeal of the provision prohibiting the holding of an interest in more than one mining claim, the exemption from taxation in the United States of bonds issued by the insular government, and the empowering of the government to admit a limited number of Chinese skilled laborers to the islands.

INTERNAL ADMINISTRATION. — An important incident was the revision of the **civil service rules** and regulations of the United States, to take effect April 15th. The revision codifies the rulings that have been made from time to time since the enactment of the Civil Service Act of 1883, arranges systematically the various rules and regulations, and shortens the civil service code by about one-half. The number of places exempted from examination has been reduced, and many have been omitted, such as private secretaries, confidential clerks, engineers, and miscellaneous places which can be filled better by promotion or transfer within the classified service. The classified service is extended to all positions subject to classification under the law, and the civil service of Porto Rico and the Philippines is placed on the same basis as that of the United States. Citizens of those islands are to be admitted to examinations for appointment in the civil service of the United States, and appointees who have served in the Philippine service for three years may be transferred to the United States service. By an order of March 26, the President directed the civil service Commission to take steps to extend the regulations governing the employment of laborers in the departments at Washington to the service outside of Washington. To relieve the **money market** and provide bonds for bank-note circulation, the Secretary of the Treasury announced in March

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that he would purchase $100,000,000 of United States 3 per cent bonds of 1908 or 4's of 1907, to be replaced by 2's running 30 years. The annual **report of the Secretary of the Treasury**, made public in December, gave the total receipts for the fiscal year ending June 30, 1902, as $684,326,280, and the expenditures as $593,038,904. The principal items of revenue were: internal revenue, $271,880,122; customs, $254,444,708; postal service, $121,848,280. The estimated receipts for 1903 are $694,020,630, and the expenditures, $651,020,630. The receipts from internal revenue were reduced about $100,000,000 by the repeal of the war revenue taxes. The imports into the United States for the year ending March 31 exceeded $1,000,000,000 in value, while the value of the exports reached $1,414,786,954. The treasury statement for April 1 showed a cash balance of $222,921,989, an increase of $45,000,000 over the amount for April, 1902. The annual **report of the Secretary of War** recommended that the strength of the regular army be maintained at 60,000, that the anti-canteen law be repealed, that the tribal governments of the Moros be recognized for a time, that the duties on imports from the Philippines be reduced from 75 to 25 per cent of the Dingley rates, and that the gold standard be established in the Philippines. The report of the Adjutant-General shows that 41,504 soldiers were discharged during the year, that 4,667 deserted, and that 1,227 died of wounds or from disease. The report of the Commissioner of **Immigration** shows a large increase in the number of immigrants to the United States from Europe, the amount reaching an average of nearly 100,000 per month. The chief sources of the influx are Italy, Austria-Hungary, Russia, Finland. The report of the **Postmaster-General** shows a large increase in the extension of the rural free delivery service. In March evidence of irregularities and fraudulent practices in the Post Office Department at Washington was discovered, and an investigation was instituted. Among the charges alleged was the existence of a so-called "promotion syndicate" in the department, with an extensive field of operations in the city of New York. An order of the Postmaster-General in November directed that after December 1 any female employe in the department who married should lose her place. The report of the **Secretary of the Interior** showed that nearly 20,000,000 acres of public land were disposed of during the year, that 43,932 names were added to the pension rolls, and that 27,387 patents were granted. An incident of note was the appointment of an **International Exchange Commission** consisting of Messrs. H. H. Hanna, Chas. A. Conant, and J. W. Jenks to confer with a number of European governments with a view to devising a plan, if possible, for steadying the rates of exchange between nations employing gold and those employing silver standards.

CONGRESS. — The second session of the Fifty-seventh Congress opened Tuesday, December 3, and ended March 4, 1903. The **annual message** of the President recommended that legislation be enacted for the public regulation and supervision of trusts and corporations; that if this end could not

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be accomplished by ordinary legislation, an amendment to the Constitution be proposed; that a department of commerce be created; that the reciprocity treaty with Cuba and the treaty with Colombia for the construction of the Isthmian Canal be ratified; and that the strength of the navy be substantially increased. The President expressed the view that the reduction of the tariff as a means of reaching the evils of the trusts would be wholly ineffective, and suggested the appointment of a non-partisan commission of business experts to study the question with a view to recommending such alterations as changed conditions might require. The President further expressed the opinion that additional legislation with regard to the monetary system was necessary, although he thought no attempt ought to be made to reconstruct the financial system. — The record of the second session of the Fifty-seventh Congress shows that some 1,200 special and about 150 general acts were passed, and received the approval of the President. The most important of the general acts were for the following purposes: to create a department of commerce and labor; to regulate trusts and combinations in restraint of trade; to create a general staff for the army; to reorganize the militia; to provide a currency for the Philippines; to amend the bankruptcy act; to regulate immigration; and to increase the navy. The act to create a **department of labor and commerce** makes the secretary of commerce and labor a cabinet officer with the same salary, tenure, and privileges as those of other heads of departments, and declares his duty to be to foster, promote, and develop foreign and domestic commerce, the mining, manufacturing, shipping, and fishery industries, the labor interests, transportation facilities, and the insurance business of the United States. The new department consists of a bureau of corporations, the bureau of labor, the lighthouse service, the steamboat inspection service, the bureau of navigation, the bureau of standards, the coast and geodetic survey, the immigration service, the bureau of statistics formerly in the treasury department, the bureau of foreign commerce formerly in the department of state, the census bureau, and the fish commission. The bureau of corporations is to be presided over by a commissioner of corporations, who is charged with making diligent investigation into the business of any corporation or joint-stock company engaged in foreign or interstate commerce, with a view to the collection of such information as will enable the President to make suitable recommendations to Congress for the regulation of commerce. For this purpose, the commissioner is vested with the same power as is exercised by the Interstate Commerce Commission in respect to common carriers, including the right to subpoena and compel the attendance of witnesses. As passed by the House the bill provided for placing the Interstate Commerce Commission under the new department, but the Senate rejected this provision, and it was stricken out by the Conference Committee. (For the provisions of the **anti-trust act** see *Trust Question*.) The act to create a **General Staff** for the army substitutes the title "chief of staff" for that of

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"commanding general," and creates a general staff of forty-five officers charged with the preparation of plans for the defence of the country and for the mobilization of the army in time of war. The staff was selected April 18, with General Young as chief, and the act will go into effect after the retirement of General Miles in August. The act to regulate the **militia** is intended to bring the State militia more under the control of the national authority, and to induce it to conform to certain standards fixed by Congress. The law provides that national aid for the support of State militia shall be made when certain regulations prescribed by Congress are observed To receive national aid, the militia in each State must be reorganized so as to conform to the organization of the regular army, and when this is done, it is to be uniformly armed, equipped, and furnished with regular army stores. It is to be inspected by regular army officers, and is required to observe certain regulations with respect to drilling and participation in encampments. — The **Philippines Currency Bill** makes the gold peso the unit of value in the islands; provides that the gold coins of the United States shall be legal tender in the islands at the rate of one dollar for two pesos; that an additional coinage of 75,000,000 silver coins of the denomination of one peso shall be made; that certificates of indebtedness to maintain the parity of silver and gold pesos shall be issued, not to exceed 20,000,000 pesos; and that silver certificates shall be issued as needed. — The new **bankruptcy act** amends the old law in several particulars. It removes from creditors the burden of proving fraudulent intent upon the part of the insolvent, and throws upon the applicant the burden of proof as to his honesty; establishes greater equality in the treatment of creditors; limits the number of discharges which a voluntary bankrupt may receive to one in six years; provides that the appointment of a receiver for a corporation which is insolvent is an act of bankruptcy; increases the fees of referees and trustees to an average of about 50 per cent over those allowed by the old law; and adds to the list of debts from which a discharge of bankruptcy shall be refused. — The **immigration bill** as finally passed, is a systematic codification of the various acts relating to immigration. It provides that a tax of $2 shall be collected from every alien immigrant, the amount to be paid by the master or owner of the vessel in which he arrives, and to be turned into the immigrant fund for the administration of the law. It is made unlawful to assist or encourage the immigration of aliens by a promise of employment, and masters of vessels are made liable to a fine of $1000 for each immigrant, brought over by them, who is not entitled to admission. A strong effort was made to incorporate an educational test in the bill, but it was unsuccessful. A clause attached to the bill as finally passed forbids the sale of intoxicating liquors in the Capitol. — The **Naval bill** provides for a material increase in the personnel of the navy, and in the number of battleships. The number of midshipmen at the naval academy is to be doubled, and the enlisted force increased to 31,000 men, not includ-

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ing apprentices. — **Other measures** of lesser importance were: An act to increase the salaries of judges of all United States Courts; an act for removing the tariff on coal for one year, and for placing anthracite on the free list; an act to appropriate $3,000,000 to relieve the distress caused by the failure of crops in the Philippines; an act to promote the efficiency of the Philippine Constabulary; an act to amend the national banking act so as to enable cities of 25,000 population to have reserve banks; an act increasing the pension of Mexican War veterans to $12 per month: an act for the redemption by the United States of Hawaiian silver currency; and an act to require railroad companies engaged in interstate commerce to equip their cars with automatic couplers and continuous brakes. — **Measures which failed** after prolonged discussion in the Senate were the Aldrich currency bill for depositing the government revenues in the national banks, and for permitting use of State, municipal, and corporation bonds as security for national bank circulation, the Philippine tariff bill for reducing the tariff on imports from the Philippines, the bill to protect the President from anarchistic attacks, the pure food bill, and the bill to admit the Territories of Arizona, New Mexico and Oklahoma to the Union as States. All efforts to pass the Aldrich bill by the Senate were defeated by the filibustering tactics of the Democrats, and it was accordingly abandoned by its supporters the day before the adjournment of Congress. The House "Omnibus" **bill for the admission of Arizona, New Mexico, and Oklahoma**, caused a division among the Republicans in the Senate, one party under the leadership of Senator Quay favoring the bill, the other under the leadership of Senator Beveridge favoring the admission of Oklahoma only. The Senate Committee on Territories reported a substitute for the House bill providing for the admission of Oklahoma, including the Indian Territory, with no mention of Arizona and New Mexico. Notwithstanding this report, Senator Quay continued his efforts in support of the House bill, and for over a month all important legislation in the Senate was blocked by his obstructive tactics. As a result the Philippine tariff bill and the Conference report on the bill to protect the President, together with the canal and reciprocity treaties, were not acted upon by the Senate at the regular session. The President accordingly called an extra session of the Senate to meet March 5. At this session the treaties were finally ratified (See Foreign Relations and Isthmian Canal). In view of the prolonged deadlock in the Senate, a significant move was the instructions given to the Senate Committee on Rules to inquire what changes, if any, are necessary in the **rules of the Senate**, and whether it is expedient to limit debate, and to what extent. The **appropriations** made at the second session amounted to $753,484,018 as against $800,624,496 at the first session, the largest items being $153,401,549 for the Post Office Department, $139,847,600 for pensions, $81,877,291 for the navy, and $78,138,752 for the army. (See also Trust Question and Labor and Capital.)

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THE FEDERAL JUDICIARY. — Under this head the most notable event was the decision of the Supreme Court in the **lottery cases** (Champion *vs.* the United States, and Francis *vs.* the United States) handed down February 23. This decision terminated a prolonged legal controversy growing out of the act of Congress of March 2, 1895, which forbids any person from "causing to be carried from one State to another, lottery tickets or advertisements." The main questions involved were whether lottery tickets were articles of commerce, and whether the power of Congress to regulate commerce, included the right to prohibit it. By a vote of five to four (the Chief Justice, and Justices Brewer, Peckham, and Shiras, dissenting), the Court held that any article which can be bought or sold, whether possessing intrinsic value or not, is an object of commerce; that whenever Congress declares that a given article of commerce is prejudicial to the public health or morals, its action is not reviewable by the courts; and that the right to "regulate" includes the right to prohibit commerce in articles declared prejudicial to the public health or morals. — In the case of Andrews *vs.* Andrews, decided in March, the Supreme Court upheld the validity of a Massachusetts statute, which provided that divorces obtained by citizens of the State through residence in another State should not be recognized by the laws of Massachusetts. — In the case of Easton *vs.* Iowa, decided in February, it was held that State laws enacted for the regulation of State banks can have no application in the case of banks chartered under the authority of Congress, and hence, a person engaged in the business of conducting a national bank cannot be punished for disregarding State laws for the regulation of the banking business. In the Downs case, decided January 5, it was held that money paid by Russia on sugar exported is a bounty, and that a collector of customs in the United States is justified in levying a countervailing duty on Russian sugar imported into the United States. — In Reed *vs.* Colorado, the Court upheld the constitutionality of a statute of Colorado prohibiting the importation of cattle into the State from points south of the thirty-sixth parallel of latitude unless they bear bills of health. — In the case of Rosa B. Jarmen, decided December 8, the Supreme Court upheld the validity of a Missouri statute, which provided that suicide shall not be a defence against the payment of a life insurance policy, any clause in the policy to the contrary notwithstanding, — In November several test cases involving the suffrage rights of negroes in Alabama and Virginia were docketed in the Supreme Court. In the Alabama case (Giles *vs.* Board of Registrars), the Court decided (April 27), that the relief sought could not be afforded by the judicial branch of the government, as the question was a political one. In the case of Karem, decided February 3, the Circuit Court of Appeals at Cincinnati held that the fifteenth amendment to the federal Constitution applies only to federal elections and a statute passed in pursuance thereof applying to State elections was invalid. In May this decision was affirmed by

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the United States Supreme Court. (See Trust Question and Labor and Capital.)

THE ISTHMIAN CANAL. — In pursuance of the act of Congress approved July 1, for the construction of the Isthmian Canal, an investigation into the legal title of the Panama Company to the rights and property which it offered to sell to the United States, (see past *Record*) was immediately begun by the attorney-general who reported that the Company was able to convey a good title. In February the government of the United States formally accepted the offer, subject to the conclusion and ratification of a treaty with Colombia for the acquisition of the necessary concessions. Shortly after the passage of the canal bill, negotiations were begun with Colombia for this purpose, and continued with slow progress until the latter part of January, when a treaty was finally concluded by Secretary Hay and Dr. Herran, the Colombian commissioner. The treaty was at once laid before the Senate, and promptly reported by the committee on February 3. After a prolonged debate, in which a small minority, led by Senator Morgan, attempted to prevent ratification, the Fifty-seventh Congress expired with the treaty unratified. This failure led the President to call a special session of the Senate to meet March 5th, and after a debate of about one week the treaty was ratified without amendment by a vote of 73 to 5. The treaty authorizes the Panama Canal Company to sell its property and franchises to the United States; grants the United States a lease for one hundred years with the privilege of perpetual renewal; fixes the width of the canal zone at about six miles, including the necessary auxiliary canals, and certain rights at both termini of the canal; and authorizes the United States to establish and enforce regulations for the use of the canal, and to fix rates of toll and charges subject to the condition that the canal is to be neutral in perpetuity with Panama and Colon as free ports for vessels of all nations. The government of Colombia undertakes to protect the canal, and, in case of Colombia's inability to do so, the United States is authorized to aid her. It is provided that the rights and privileges granted to the United States shall not affect the sovereignty of Colombia over the territory within whose boundaries such rights and privileges are to be exercised. The government of the United States agrees to construct the preliminary works as quickly as possible, to begin the main works within two years after the exchange of ratifications, and to open the canal to traffic within fourteen years, except in case of unforeseen obstacles, in which event a further extension of twelve years is to be allowed. The price to be paid Colombia for the concession is $10,000,000 in gold upon the exchange of ratifications, and $250,000 annually, beginning nine years after the date of ratification. — Provision is made for joint commissions to establish and enforce police and sanitary regulations, to appraise damages resulting to private owners in the course of the construction of the canal, and to condemn land neces-

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sary for the construction of railways and auxiliary canals. — The treaty is to be laid before the Colombian Congress in extraordinary session on June 20 and if ratified the exchange of ratifications is to take place September 22. — The work of constructing the canal is now progressing slowly under the direction of the Panama Canal Company.

ELECTIONS AND APPOINTMENTS. — During the winter and spring thirty **United States senators** were chosen by the State legislatures. Of these, sixteen were their own successors, the others being new members. Of the new senators seven are Democrats and seven Republicans, among them being ex-Senator Arthur P. Gorman of Maryland, who has been chosen leader of the Democratic party in the Senate, and Reed Smoot, a Mormon apostle from Utah. The long senatorial **deadlock in Delaware** was broken in March by the withdrawal of J. E. Addicks from the race and the conclusion of an agreement between the two Republican factions in the legislature, by which each was to name one of the senators. **Municipal elections** in several States occurred in April. In Chicago, St. Louis, Cleveland, and Toledo the Democrats were successful; in Cincinnati, Kansas City, Topeka, Columbus (O.), and Dayton the Republicans won. In Chicago the ultimate municipal ownership of street railways was the main issue, and with some differences of detail was favored by both candidates. In the Kansas elections the chief issue was the enforcement of the liquor prohibition law, and the results in most of the towns were highly favorable to prohibition. **Judicial elections** were held in Wisconsin and Michigan, the Republicans carrying both States by large majorities. Notable **federal appointments** were the appointment of William R. Day, United States Circuit Judge, and Oliver Wendell Holmes, Justice of the Supreme Court of Massachusetts, to be justices of the United States Supreme Court in the places of Justices Shiras and Gray, retired; George B. Cortelyou to be Secretary of the new Department of Commerce and Labor; Charlemagne Tower to be Ambassador to Germany to succeed Andrew D. White, retired; Robert S. McCormick to succeed Charlemagne Tower as Ambassador to Russia; Bellamy Storer to succeed Mr. McCormick as Minister to Austria-Hungary; David J. Hill to be Minister to Switzerland; Charles P. Bryan to be Minister to Portugal; Richmond Pearson to be Minister to Persia; and Lloyd Griscom to be Minister to Japan. Two nominations which failed to receive the assent of the Senate were those of William Byrne, an "Addicks" Republican, to be United States District Attorney for Delaware, and W. D. Crum (colored) to be Collector of the Port of Charleston. The Senate, both at the regular and extra sessions, refused to confirm the nomination of Crum and he was reappointed after the adjournment of the Senate.

THE TRUST QUESTION. — The anti-trust agitation has been active, and has in the main been notably successful. Early in the year Senator Hoar introduced in the Senate a drastic measure for dealing with the trusts. A bill of quite different character, introduced by Senator Elkins, passed the

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Senate. In the House a bill, supposed to have been framed in accordance with the views of the administration, was reported by Mr. Littlefield from the Sub-committee on Judiciary, and was unanimously passed by the House, but was not acceptable to the Senate. The **Elkins bill** was reported favorably by the House Committee on Interstate Commerce, was passed by the House, and became law. It provides a penalty of from $1,000 to $20,000 for the failure of common carriers to file tariff rates and observe them, or for the granting or receiving rebates in respect to transportation. The Interstate Commerce Commission is authorized to institute suits in the federal courts for infractions of the law, and it is made the duty of the United States attorneys to prosecute such suits. Another measure intended to expedite the prosecution of suits against violations of anti-trust laws was also passed by Congress February 11, and approved by the President. It places at the disposal of the Attorney-General a special fund of $500,000 with which to prosecute violators of federal statutes against combinations in restraint of trade and commerce, allows precedence of such suits over others, and authorizes a hearing at the earliest practicable date before a bench of not less than three circuit judges, thus doing away with the customary appeal to the Circuit Court of Appeals, and allowing the case to be carried directly to the Supreme Court. Finally, a provision known as the Nelson Amendment was attached to the bill for the creation of the department of commerce and labor, providing for a **bureau of corporations** to collect information with respect to the operation of trusts for the guidance of the President and Congress (see CONGRESS). Meantime the federal and State courts have been active in their respective spheres. On April 9 the decision of the United States Circuit Court of Appeals in the **Northern Securities case** (see last RECORD, p. 727) was announced at St. Paul. By the act of Congress of February 11 mentioned above, the case had been transferred to this court from the circuit court with instructions to expedite the hearing and decision as much as possible. By a unanimous decision the court held that the merger of the Great Northern and Northern Pacific railroads was a combination in restraint of trade and commerce among the States, and in violation of the Sherman anti-trust law of 1890. An injunction was issued prohibiting the Securities Company from acquiring further stock of the two roads, or from exercising any control over the acts of either company. The two railroads were enjoined from permitting their stock to be voted to the Northern Securities Company, or from paying dividends on stock issued thereto. Subsequently one of the four judges who granted the injunction suspended so much of the decree as forbade the payment to the Securities Company by the two railroad companies of regular dividends pending an appeal to the Supreme Court. — On February 18 Judge Grosscup, sitting in the United States Circuit Court of Chicago, disposed of the **beef trust case** (see last RECORD, p. 727) by issuing an injunction against the packers as a combination in restraint of trade and commerce

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among the States. The court held that the defendants were engaged in an unlawful combination in requiring their agents to refrain from bidding against each other, in bidding up temporarily the price of livestock to induce large shipments, and then ceasing in order to obtain the stock at prices much lower, in agreeing among themselves on prices to be paid, and in making agreements with transportation companies for rebates and other discriminative rates. — In November the United States District Court at San Francisco issued a permanent injunction against the **Federal Salt Company** and its associates as an illegal combination in restraint of trade. — In March the Supreme Court of Missouri convicted five **beef packing companies** of maintaining an unlawful combination to control the price of meat, prohibited them from doing business in the State henceforth, and imposed a fine of $5,000 each and the cost of the proceedings. — The Supreme Court of Illinois in Atkins *vs.* Butler St. Foundry Co. upheld the constitutionality of the State **anti-trust statute**. The provision in question imposed a penalty on officers of corporations for failure to file with the Secretary of State an affidavit that they are not members of, nor parties to, any trust combinations.

LABOR AND CAPITAL. — The most notable event under this head was the **report of the Coal Strike Commission** appointed by the President in October, to arbitrate the differences between the anthracite coal miners and their employers (last RECORD, p. 729). After an exhaustive investigation lasting through more than five months, the Commission reported March 21, decreeing a ten per cent increase in the wages of all employees from November 1, 1902, to April 1, 1903. The Commission further decreed a working-day of eight hours after April 1 for engineers and firemen at the rate of wages now paid, and a nine-hour day with the present wages for other employees; fixed a sliding scale by which the miners' wages are increased one per cent for every ten per cent increase in the price of coal; allowed the miners to employ check weighers at their own expense; provided for a permanent board of conciliation; and forbade discrimination against either employers or miners on account of membership or non-membership in the union. The award is to remain in effect from April 1, 1903, to March 31, 1906. — An **epidemic of strikes** in a number of other trades and industries affecting ten States and fifteen important cities existed at one time in the spring. The chief industries affected were building operations, street-car traffic, cotton mills, foundries, lake and river transportation, furniture factories, and telephone communication. — A strike of trainmen and firemen on the Wabash railroad was prevented by a temporary **injunction** issued by the United States Circuit Court at St. Louis on March 3, restraining the union from interfering with the employees of the road, or interrupting the business of the road as a common carrier. Shortly thereafter the dispute was amicably settled by an increase of wages. — The United States District Court at Kansas City issued an injunction against

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a team-driver's association to prevent it from striking, on the ground that the men were in government employ, being engaged in hauling bonded goods. In Omaha an employers association was organized for protection against striking employees but was dissolved by an injunction issued by the United States District Court. The House bill providing for an **eight-hour day** for all government work performed by private contractors (last RECORD, p. 725) was radically amended by the Senate Committee on Labor at the second Session of Congress, and failed to pass that body. Among the states, laws regulating and restricting the **employment of child labor** in public places were enacted in New York, South Carolina, Kentucky, Louisiana, Maryland, Massachusetts, Ohio, Rhode Island. **Employers' liability** acts were passed in Maryland, New York, Ohio, and Virginia. Acts prescribing the **length of the working-day** in certain public employments were passed in New York, Louisiana, and Rhode Island. Acts for regulating the **manner of payment** of wages were passed in Maryland and Massachusetts; acts for regulating the **employment of labor in mines** or factories were passed in Ohio, Iowa, and Maryland. **Miscellaneous acts** were: in Kentucky, making Labor Day a holiday, creating the office of labor inspector, and requiring the examination and licensing of barbers; in Maryland, for establishing free public employment bureaus; in Massachusetts for creating boards of conciliation and arbitration; in New York, requiring the employment of citizens only on the public works, and giving war veterans the preference in appointments to the public service. — A decision of the Ohio Supreme Court of December 2 held the eight-hour law unconstitutional. A decision of the Washington Supreme Court held that the act forbidding the employment of women for more than ten hours a day, is not a deprivation of liberty without due process of law. A decision of the Indiana Supreme Court held the statute fixing a minimum wage for unskilled labor on the public works to be unconstitutional, on the ground that it was class legislation, and interfered with the freedom of contract. A decision of the New York Court of Appeals held unconstitutional an act of 1899, which made it a misdemeanor to require more than eight hours a day for State or municipal work.

THE RACE QUESTION. — During the autumn and winter there was something of a revival of the **Southern question**, both in and out of Congress. The discussion grew out of several incidents, the chief of which was the appointment by the President of several colored men to office in the South, and the closing of the Post Office at Indianola, Mississippi, on account of pressure which was alleged to have been brought against the colored post-mistress to compel her resignation. The President was charged in some quarters with favoring the social equality of the races, and was criticised for his opposition to the so-called "Lily White" movement. His nomination of W. D. Crum (colored) to be collector of the port of

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Charleston, and his insistence upon the confirmation of the appointment by the Senate, notwithstanding the great opposition which it provoked among the white inhabitants of South Carolina, was the subject of general criticism in the South; and chiefly through the efforts of Senator Tillman the appointment was rejected by the Senate. The **Indianola incident** was the subject of a lively debate in Congress, and every effort to induce the President to reopen the office has proved futile. — The usual attempt was made in the last Congress to institute an inquiry into the **suffrage conditions** in the South by means of the Crumpacker resolution, but no action was taken further than to refer the resolution to the Committee on rules. — Another measure which was not taken seriously was a bill introduced by Senator Hanna for granting government **pensions to all negroes** who were once held in slavery, the amount to be regulated according to the age of the pensioner. — A project for **colonizing the negroes** in the insular possessions was the subject of considerable discussion, its principal advocate in Congress being Senator Morgan of Alabama. As a preliminary step, the war department appointed T. Thomas Fortune, a New York negro, as special commissioner to the Philippines, to study and report upon the conditions and opportunities for colonization there. — The record of **lynching** shows that since November 20, thirty-six persons have been put to death by mobs. Arkansas and Mississippi head the list with six each, Louisiana follows with five, Georgia and Texas each has three, Missouri and South Carolina each two, and Kentucky, Indiana, Alabama, Kansas, West Virginia, Florida, Illinois, New York, and Oregon each one. The offences alleged were murder or complicity in murder in twenty cases, rape in seven cases, assault in three, arson in two, adultery in two, and insult to white persons in one. Of the victims thirty-two were negroes, one white, and three unknown. — In Mississippi a lynching was prevented by prompt action of the governor in ordering out the militia. — In Ohio the family of a victim of lynching recovered $5,500 from the county, under the anti-lynching statute, while in Indiana a sheriff forfeited his office for failure to prevent the lynching of a prisoner. The only case of burning at the stake occurred in Arkansas. — In a Kansas case the discovery was made that an innocent man had been lynched.

II. FOREIGN NATIONS.

EUROPEAN INTERNATIONAL RELATIONS. — Royal visits, designed to reaffirm ancient friendships, remove misunderstandings, or smooth international relations, have been made by the King of England to Portugal, France, and Italy, and by the German Emperor to Denmark and Italy. An alliance between **Great Britain and Portugal** was recently announced by the speech from the Portuguese throne, and has resulted in

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an understanding with regard to British and Portuguese interests on the Zambesi. Edward's cordial reception in France seems to have confirmed the reports of an **Anglo-French** *rapprochement*. The **Anglo-Italian** *rapprochement* with regard to English and Italian interests in the Eastern Mediterranean has been a matter of public acknowledgment. Evidences of Anglo-Russian friction, chiefly on account of the sugar bounty question, have appeared. A **Russo-Austrian** *entente* with regard to the Balkan situation has been a feature of the European policy in Macedonia. A commercial treaty has been made between **Russia and Persia**, providing for the substitution of specific duties for the five per cent ad-valorem duties prevailing since 1828. Considerable significance is attached to the recent extradition treaty between **Greece and Turkey** and the agreement for the reciprocal suppression of brigandage on the common frontier. The **Brussels Sugar Convention** has been ratified by Great Britain, Austria-Hungary, and the upper chambers of the Dutch, Belgian, and French parliaments. The passage of four unarmed Russian torpedo-boat destroyers through the **Dardanelles** in September, with the tacit consent of the Porte, has been the subject of general European comment, and led to a formal protest by the British government on the ground that the act was a violation of the treaties of Paris and Berlin. A dispute between Great Britain and France concerning the **Waima affair** in West Africa has been settled by arbitration, the Belgian minister of state acting as arbitrator.

GREAT BRITAIN AND IRELAND.—Parliament reassembled for the autumn session on October 16, was prorogued December 18 until February 16, from which date it continued in session until April 9. The chief measure passed at the autumn sitting was the **Education Act** (last RECORD, p. 731), which received the final assent of the Commons on December 3, by a vote of 246 to 123. In the House of Lords it passed the third reading December 15, and received the royal assent on the 18th. It contains 27 sections arranged in four parts: Local education authority; higher education; elementary education; and general provisions. The threats previously made in certain localities of nullifying the operation of the law by passive resistance, have so far not been carried out, and the county councils, although with reluctance in some cases, are taking the necessary steps to put the new law into operation. **Other measures** of importance passed at the autumn sitting were: an act to enable county councils in Ireland to exempt congested districts from charges for agriculture and technical instruction; an act to amend the local government act for Ireland in a variety of particulars; the mail ships act to empower the King to carry into effect certain conventions with foreign countries respecting ships engaged in the postal service; the Metropolis water act, providing for the establishment of a metropolitan water board; the militia and yeomanry act, empowering the secretary of state to form reserve divisions of the militia and yeomanry; the Osborne Estate Act, transferring the Osborne House Estate,

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Isle of Wight, from the King to the nation; the Patents Act for amending the patent law; and the Uganda Railway Act, authorizing certain expenditures for the completion of the Uganda railroad. At the opening of Parliament on February 17, the **speech from the throne** referred to the Venezuela imbroglio, the Balkan situation, the Aden hinterland dispute, the Somaliland expedition, and the progress of reconstruction in South Africa. The King promised that bills should be introduced dealing with the Irish land question, London education, sugar bounties, and London docks. These measures, together with the budget, the anti-ritualism bill, an innkeepers' liability bill, and the army reorganization bill, have been the chief subjects of debate at the spring session. The **Irish Land bill**, introduced by Mr. Wyndham, secretary of state for Ireland, appropriates £12,000,000 to enable tenants to purchase the interest of landlords in the lands which they occupy and which is not to be repaid. The bill further provides for a loan to the amount of £100,000,000 for the same purpose. The Irish insisted that sales be made compulsory under the act, but the bill as introduced provides only for voluntary transactions between landlord and tenant. A body entitled estates commissioners, charged with the supervision of all purchase operations, is provided. The principle of the bill was unanimously accepted by the Irish National Land Convention at Dublin, April 16, a fact which will largely facilitate the passage of the measure. The **anti-ritualism** bill, which passed its second reading in the House of Commons, March 14, gives the civil courts jurisdiction of proceedings brought by laymen to prevent the practice of extreme ritualism, abolishes the bishop's right of veto, and provides that offending clergymen may be deprived of their livings. On April 24, the Chancellor of the Exchequer made the annual **budgetary statement**. His proposals included the abolition of the duty on grain, the reduction of the income tax by fourpence, and the retention of the taxes on sugar, tea and coal. The total expenditures for the past year were estimated to have been $1,005,635,000. The estimated expenditures for 1903–4 were placed at $719,770,000, and the receipts at $773,850,000, thus leaving a substantial surplus. The chief item of increase for next year is the naval expenditure, which is placed at $179,184,205, an increase of $16,000,000 over last year. In this connection it was announced on April 1 that 71 war-ships were under course of construction. These include 11 battle-ships, 25 cruisers, and 26 torpedo boats and torpedo-boat destroyers.

In several recent **by-elections** for members of Parliament the government was beaten in districts regarded as safely Conservative. An incident of judicial interest was the trial and conviction of Colonel **Arthur Lynch**, a member-elect of Parliament from Galway, for treason in the Boer war. His sentence was commuted to life imprisonment.

THE BRITISH COLONIES AND INDIA.—In **Canada** the chief political event was the opening of the Dominion Parliament on March 12. In his opening speech the governor-general alluded to the rapid increase

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of population in the Northwest territories, and announced that a commission would be appointed to investigate the question of better facilities for the transportation of grain from those regions. He referred also to the marked growth of Canada's foreign trade, which has increased 96 per cent within the last six years. The principal measures brought before the Parliament were bills for the readjustment of the parliamentary constituencies in accordance with the recent census; for the creation of a railway commission; for the amendment of the patent laws; for the reorganization of the militia; for restricting Chinese immigration by imposing a head tax of $500 on each immigrant; for the reorganization of the department of marine and fisheries; and for the creation of a plan of industrial conciliation. The financial situation has been favorable. The estimated revenue for the year 1903–4 is $65,000,000, and the expenditures $51,650,000, leaving an unprecedented surplus. The public debt was reduced $5,650,000, and marked improvement of Canada's credit has been noticed. The budget provides for a reduction of the salt tax and an enlargement of the exemptions from the income tax. — In **Ontario** the liquor prohibition movement was defeated by a plébiscite taken on December 4. — The Manitoba legislature was prorogued in February after guaranteeing the bonds of the Canadian Northern railway for the construction of 388 miles of branch lines at $10,000 per mile. — In **India** an event of imposing character was the Durbar at Delhi in December, the occasion of the proclamation of Edward VII as King and Emperor. Despite the plague, the famine, and other natural calamities, the financial situation in India has been favorable. A surplus of $24,500,000 existed at the close of the fiscal year, and notable progress had been made toward creating a gold reserve and establishing a gold standard. — In **Australia** the chief event of political interest was the appointment in November of Lord Tennyson as governor-general for a term of one year. Among the individual states of the Commonwealth **Victoria** has been the chief centre of political interest. The struggle over the bill to reform the parliamentary franchise, and to some extent the Civil Service, led to the downfall of the cabinet and its reconstruction in February. — A conference of **Australian premiers** was held in April to consider questions of interstate importance with particular reference to the rights of the states as against the Commonwealth. In **New Zealand** considerable dissatisfaction has been found with the Compulsory Arbitration Act. In February the cabinet-makers of Auckland were locked out in consequence of a decision of the arbitration court increasing their wages. The government thereupon prosecuted the employers, but the prosecutions were dismissed, thus dealing what is considered a serious blow at compulsory arbitration. The budget statement shows that the public debt has been largely increased during the year, but that taxation has been reduced, and that there will be a surplus of $2,000,000 at the end of the year. In **Tasmania** the general elections occurred in March, with the result that the ministry was defeated. The

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chief legislative measures of the last session related to the finances. In **Newfoundland** the legislative session was opened on March 5. The governor's speech recommended an increase in the appropriation for education, the grant of a subsidy for the exportation of fresh fish, a bounty for the erection of bait freezers, the development of the coal industry, and the erection of smelting furnaces. The chief legislative measure was the renewal of the *modus vivendi* on the French shore question.

FRANCE. — The **legislature** assembled January 13, and M. Bourgeois was re-elected President of the Chamber of Deputies. The chief subject of debate has been the government's policy with regard to the **associations law**, which has been one of strict enforcement. The work of disbanding the religious orders has progressed steadily, and without serious opposition. Thousands have left France rather than comply with the requirements of the law. On March 24 the Chamber, by a vote of 304 to 246, rejected all applications for authorization made by the religious orders, and their monasteries were closed after some resistance. The banishment of the Carthusians and the closing of the Chartreuse monastery on March 26 completed the government's religious programme, which has received the approval of the Chamber. The **budget** as laid before the Chamber in October (last RECORD, p. 734) was reduced by the budget committee, and otherwise amended by the Senate. In its amended form it passed the Chamber on March 31, after an unprecedented session of 27½ hours. Among the provisions, as finally passed, was one forbidding senators from holding certain offices of profit, including college professorships. The army estimates were reduced by 51,000,000 francs, but the Chamber refused to reduce the naval budget, which was increased by 10,000,000 francs. The reduction of the army budget and the railway guarantees, the increase of succession duties and an additional tax on petroleum, have obviated the necessity of a bond issue to meet an expected deficit. On December 4 the **sugar bill** passed the Chamber of Deputies by a vote of 537 to 14. It reduces the excise on refined sugar from 60 to 25 francs per hundred kilos (220 lbs.) as a compensation for the abolition of the sugar bounties under the Brussels Convention which was ratified at the same time. An administrative measure of note was the extension of the **eight hour law** to all arsenals and naval establishments in January. The strict enforcement by the government of the law forbidding the use of the **Breton dialect** by priests in Brittany was formally approved by a vote of the Chamber. — The **elections** for one-third of the members of the Senate occurred on January 4, M. Rouvier, finance minister, and premier Combes, being among the number chosen. M. Hanotaux, former minister of foreign affairs, was defeated. The election resulted in the strengthening of the ministerial majority in the upper House by thirteen members. The successful candidates are classified as follows: progressive Republicans and Liberals, 25; Republicans, 13; Radicals, 36;

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Socialists, 10; Conservatives, 8. The Nationalists were defeated in nearly every department.

GERMANY.—The Reichstag reassembled in October, and the debate on the second reading of the **tariff bill** (last RECORD, p. 734, and RECORD for June, 1902, p. 360) was resumed. The uncompromising opposition of the Agrarians to the schedule of rates adopted by the government continued, and as a result of the persistence of the social Democrats in forcing divisions on almost every clause, a new rule of procedure was adopted. For two months the Agrarians steadily refused to accept the minimum rates on grain which the government had announced October 16, as the utmost that could be offered in the way of protection. Early in December the government yielded by consenting to higher duties on barley, and a reduction of the duties on agricultural implements and machinery. An attempt was then made to carry the second reading of the bill *en bloc* without detailed discussion, and against the indignant protests of the Left. On December 12, the bill passed the second reading by a vote of 184 to 136. It passed the third reading December 14, and received the approval of the Bundesrath, December 18. The law is highly protectionist in character, and is distinctly an Agrarian measure. There is a large increase in the rates on cereals, groceries, livestock, shoes, lumber and many other articles. The rate on flour was increased from $1.74 to $4.36 per bbl., and the rate on horses from $4.76 per head to $21, and in some cases to $85. A resolution in favor of denouncing the most-favored-nation agreements with other nations was passed, but upon reconsideration it was modified so as to apply only to such agreements as had proved to be injurious to the interests of Germany. Negotiations are now in progress for the conclusion of new commercial treaties on the basis of the new tariff, and these are to be ratified by the Reichstag to be elected June 16. The new tariff is expected to go into effect in 1904. Early in January the **budgetary statement** for the ensuing year was made in the Reichstag. The estimated expenditures are $616,243,183, leaving a deficit of several million dollars, which is to be met by a special loan. The extraordinary expenditures include appropriations for new harbor works and fortresses, and an increase of the naval *personnel*. The army budget carries $112,000,000, and provision is made for 10 new battle-ships. The government intimated that heavier taxes on beer and tobacco would be forthcoming, and that a scheme was under consideration for pensioning widows and orphans. The **chief measures** before the imperial Parliament are bills to regulate the employment of children, to redistribute the seats in the Reichstag, to repeal the anti-Jesuit law of 1872 which prohibits Jesuits from settling in Germany, and to restrict the hours of labor in certain employments. The Venezuelan situation, railway construction in Africa, and provision for salaries for members of the Reichstag, were also subjects of discussion. The **child labor** bill, which passed the third reading early in March, prohibits the employment of children under thirteen years of age in mines,

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workshops, restaurants, and other public places, and imposes restrictions upon the employment of children over twelve in similar places — A bill to prohibit the manufacture of matches from white phosphorus has also passed the third reading. An agreement has been reached with Switzerland for the reciprocal **protection of patents**, designs, and trade-marks. A legal reform measure of note has been the appointment of a commission of twenty-one jurists, members of the Reichstag and public prosecutors, to investigate the question of reforming the imperial **code of criminal procedure**. In **Prussia**, the Polish question has been uppermost (last RECORD, p. 735). German colonists are being settled in the Polish districts, and a scheme for a separate Polish administration is being considered. The budgetary statement for 1903 estimates the revenue at $650,551,482, and the expenditures at $668,726,482, leaving a deficit of $18,175,000.

AUSTRIA-HUNGARY. — The political situation in Austria-Hungary has been most unfavorable. The negotiations for the **renewal of the Ausgleich** (last RECORD, p. 736) continued without success until the last day of the year. After something over two hundred fruitless conferences between representatives of the two governments, beginning as far back as 1895, and after the threat of the Emperor to abdicate if the arrangement was not renewed, the Austrian and Hungarian premiers, Dr. von Koerber and M. Szell, effected a compromise on the question December 31. The term of the new arrangement is fixed at ten years, and is based on practically the former conditions. There are to be increased tariff duties, ranging from 40 to 300 per cent, on both grain and manufactured articles. The tariff on wheat and barley is doubled, the duty on horses quadrupled, and on wine it is increased 25 per cent. Cotton, wool, leather, paper, wood, iron, and chemical products are similarly protected. The **Ausgleich** has been laid before the two Parliaments for ratification, but the prospects for its acceptance are unfavorable. Next to the **Ausgleich**, the question which has been uppermost in Austrian politics is the **Bohemian language dispute** concerning the official language to be used in Bohemia and Moravia. The Czechs demanded the introduction of their own language in the place of German, and carried their struggle into the Reichsrath, where they completely blocked parliamentary business at the autumn session. The government proposed to compromise the question by dividing Bohemia into German, Czech, and "mixed" districts, in such a way that each could be placed as nearly as possible under officials of its own race and language. Promises of railroads, canals, and other public works, were held out to secure the acceptance of the proposition. The proposal was acceptable to neither the Czechs nor the Germans. As a result of the deadlock in the Reichsrath, most of the important measures of the government failed to pass. On account of the failure of the appropriation bills, the taxes for the next six months are to be raised by imperial ordinance. Two measures which became law prohibit dealings in **grain futures** and other forms of

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speculation on the Bourse, and forbid **colportage**, — both agrarian measures. None of the other government projects succeeded in reaching the first reading at the autumn session. The principal of these were bills to increase the strength of the army, to increase the civil list, to refund the public debt, and to ratify the Brussels Sugar Convention. The army bills, which propose important reforms in the artillery and infantry service, as well as an increase of the peace footing, met with violent opposition. In the Parliaments of both Austria and Hungary they were variously amended, as a result of which General von Krieghammer, Austro-Hungarian Minister of War, tendered his resignation. They passed the Reichsrath in March. The **economic situation** has been unfavorable. In several of the most important industries considerable depression has existed, and many thousands of persons have been without employment.

Russia. — The leading incident of a political character has been the **reform decrees** issued by the Czar in March, promising freedom of religion throughout his dominions, establishing, to some degree, local self-government, and making other concessions to the village communities. The decrees were issued in commemoration of the birthday of Alexander III, and the reforms promised were intended to improve the general political and economic condition of the people (see previous RECORDS). The decrees contemplate the retention of the communal system, but permit greater freedom of withdrawal from the communes. They furthermore provide for the abolition of collective responsibility for taxes on the part of the peasant communities. Thorough reform is promised for the provincial and district governments, and closer co-operation between the communal authorities and parochial trustees of the orthodox churches is to be secured. A commission under the presidency of Minister of the Interior, Von Plehve, has been appointed to form a plan for carrying into effect the promised local government reforms. Committees have also been appointed for the revision of rural legislation, and a project has been formed and approved by the Council of State for the reorganization of the rural police. The local **agricultural committees** appointed last year by order of the Czar to investigate the causes of agricultural depression and the needs of the peasantry, drew up an elaborate list of social and economic reforms which they considered necessary. Against the repeated orders of the Minister of Finance, under whose direction they worked, they also investigated and reported upon the political questions involved. Their reports have been submitted to the provincial committees, who are to formulate the final report for the central committee, of which M. de Witte, Minister of Finance, is chairman. The chief complaints of the local committees relate to the bureaucratic system of local government, and the heavy burden of indirect taxation. The report of the Minister of Finance on the **budget for 1903** gives the ordinary revenue as $948,516,339 and the ordinary expenditures as $940,202,614. There is an extraordinary expenditure of $95,631,121, chiefly

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for the construction of railroads. In May a loan of $36,700,000 was raised for the purpose of enabling the bank of the nobility to advance money to the impoverished land owners. The tariff rates were increased in January fifty per cent on most imports, and one hundred per cent on many others. — The **industrial situation** in the central and southeastern portions of Russia has been of the most unfavorable kind, and widespread famine has prevailed. Strike riots resulting in considerable loss of life occurred in southeastern Russia in March. In April a terrible massacre of Jews lasting through a considerable part of two days occurred at Kishenev in Southern Russia. The cause of the outbreak was the death of a young person who, it was claimed by the anti-semites had been killed for sacrificial purposes. The total number of victims has been variously estimated at from fifty to one hundred persons. Extensive schemes of relief for the suffering Jewish inhabitants of Kishenev have been undertaken in various countries of Europe and in America. In **Finland** crop failure caused great destitution, the number of persons without food in December being estimated at 400,000. Comprehensive schemes of relief were undertaken, both by the government and by private associations. Meantime the Russification of Finland has proceeded apace.

ITALY. — An important **ministerial change** was the resignation, on April 21, of Signor Prinetti, Minister of Foreign Affairs, on account of poor health. Admiral Morin, Minister of Marine, was appointed to succeed him. **Parliament** reassembled November 25 for the winter session. The measure of greatest general interest was the government's scheme for the **relief of the Southern provinces** (last RECORD, p. 737). The condition of the peasantry in these parts has continued to grow worse, and during the past year more than 100,000 have emigrated to foreign lands. The programme of the government includes a reduction in the price of salt; abolition of the tax on small land holdings; exemption from income taxes of grazing farms, new industrial buildings and wages of laborers; and a divorce and affiliation bill. Another measure of scarcely less interest, which passed the Chamber on December 6, is the bill for the **Municipalization of the Public Services**, which proposes municipal management of a variety of industries, including the water, gas, electric light, bread and meat supplies. An amendment introduced by the Minister of the Interior, and which was carried, provides that no business or enterprise shall be expropriated before the expiration of one-third of the period of the original concession, provided that that period does not exceed ten years. A comprehensive bill for **judicial reform** has reached an advanced stage in the Chamber. Its aim is to simplify legal procedure, to elevate the status of the judges, and to free the whole judicial system from political control through a reduction in the number of judges and an increase in their salaries, and through the merit system for promotions. The **Budget** for 1902–1903 shows a surplus of 23,000,000 lire. Large expenditures were made on railway construction,

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and 12,500,000 lire have been set aside for public works in Rome for the year 1903. A marked increase in Italy's foreign trade for the year 1902 is worthy of note, the increase in the exports over 1901 being $17,590,061. Incidents in the **foreign relations** of Italy were the official denunciation by the Austrian ambassador of the commercial treaty between Austria-Hungary and Italy, which is to take effect at the end of the year 1903, and an agreement with Turkey concerning the question of piracy in the Red Sea. **Domestic tranquillity** was disturbed by student riots in Rome and Naples while the industrial situation was affected by a general strike of printers in Rome, and sporadic strikes in various industries elsewhere.

SPAIN. — The chief political event in Spain was the **Cabinet crisis** in November. Premier Sagasta was prevailed upon by the king to reconsider his resignation, and to reconstruct the Cabinet (last RECORD, p. 738). Unable to form a Concentration Cabinet, he formed a homogeneous liberal ministry. The Premier was severely criticised by all parties for his failure to enforce the anti-clerical decree for the regulation of non-official instruction (last RECORD, p. 738), and to carry out otherwise the programme on which he had come into power. After a tenure of about one month, the new Cabinet resigned. Sagasta died shortly thereafter. On December 3 Señor Silvela, the Conservative leader, formed a **new Cabinet** of Conservatives pledged to enforce the anti-clerical programme. The new ministry announced reforms in the fiscal service, local administration, education, and the army. On March 26 the Cortes was dissolved and new elections ordered. The official results of the **elections to the Councils general** show that the Conservatives won 311 seats as against 128 for the Liberals. The **industrial situation** was marked by bread riots and strikes in several places in January and February. In April serious student riots occurred at Madrid and Barcelona.

MINOR EUROPEAN STATES. — In **Belgium** the most important measures passed by the Parliament were laws for abolishing the duty on coffee, and increasing by fifty per cent the excise on alcohol. The budget statement for 1903 estimates the expenditures at $200,230,000, and the revenues at $200,265,000, an increase of receipts being expected from the excise, patent, and legacy duties. Dissatisfaction has been expressed with the working of the old-age pension act which went into effect one year ago, and the government has experienced some embarrassment in its administration. In **Holland** the question which has been uppermost was the controversy over the anti-strike bills. In consequence of a strike of railroad employees, the government, on February 26, introduced three bills, providing for the formation of a railway brigade to insure regular traffic; for the appointment of a commission of inquiry to investigate the conditions of railway labor; and for the amplification of the penal code so as to provide for the punishment of strikers employed in the public service. To prevent the passage of the bills a general strike was proclaimed, but was never carried

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out, owing to the vigor and rapidity with which the government bills were rushed through the Chambers. On April 11 the strike bills became law, and the strike immediately collapsed. — In **Greece** the chief political event was the general election of November 30, which resulted in the defeat of the government. A new cabinet with M. Delyanni as premier was formed, December 6. The government programme included measures for the improvement of the public administration, for increasing the efficiency of the army and navy, and for developing the national resources. The budget provides for extensive reductions in the expenses of the public service. An incident worthy of note was an overwhelming vote of the inhabitants of Crete in favor of annexation to Greece. — In **Norway and Sweden** the illness of the King necessitated the assumption of the regency by the Crown Prince. The chief measures before the Swedish Riksdag were government bills for the reorganization of the Consular service, for an extension of the parliamentary franchise, for the introduction of a duty on malt, the increase of the duty on spirits, the increase of the navy, and the extension of the railway system. The industrial and economic situation has been marked by a serious famine in north Sweden, resulting from crop failures and scarcity of fish. In January, 70,000 persons were reported to be on the verge of starvation. — In **Portugal** the chief political incident was a cabinet crisis in February, growing out of the critical financial condition of the government. A new ministry was formed by Señor Ribeiro. The chief government measures before the Chamber include a new customs tariff law, the conversion of the internal debt, and the imposition of an industrial tax upon licenses. — In **Servia** a cabinet crisis occurred in November. — In **Switzerland** the elections to the National Council occurred in November, the results showing a strong Radical-Democratic majority. A loan of $14,000,000 has been effected, nearly one-fourth of which is to be used for equipping the army with rapid-firing artillery. — The situation in the **Balkan States** has continued to grow worse (last RECORD, p. 739), and the area of the troubles has increased proportionately. Encounters between revolutionary bands and Turkish troops have been of almost daily occurrence, accompanied, at times, by terrible atrocities on the part of Turkish officials. The signatory powers of the treaty of Berlin drew up a programme of reforms for Macedonia, and presented it to the Porte for acceptance. It was published December 3, and includes the reorganization of the gendarmerie, the appointment of an inspector-general with extended powers, amnesty for political offenders, prompt trials, financial reforms, and measures for compelling the observance of the law in Albania. The attempt of the Turkish government to execute these reforms led to an outbreak in Albania, and aggravated the revolt in Macedonia. The situation in Albania was further complicated by the assassination of the Russian Consul at Mitrovitza by an Albanian soldier in March. Meantime the Porte, to meet the demands of the powers for reform, has instituted a commission of reform, instructed, however, to put

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down local insurrections with a ruthless hand. In January it was reported that the two Macedonian committees had been suppressed by the government of Bulgaria. However, the irritation in Turkish official circles against Bulgaria has increased, and in May the Porte sent a note of warning to the Bulgarian government which implied a threat of war.

THE ORIENT. — A matter of international interest has been the failure of Russia to evacuate the second section of **Manchuria**, including Niu-Chwang, in accordance with the terms of the Manchurian Convention (RECORD for June, 1902, p. 366). The reason assigned by the Russian government was the failure of the Chinese Taotai to arrive at Niu-Chwang, which made evacuation impossible. In reply to this the Chinese government declared that the Taotai had been detained by the Russians at Mukden. In April it was reported that Russia had presented a number of new demands as conditions of evacuation. These included promises from China that no new treaty ports and no foreign consulates be established in Manchuria; that the customs revenues of Niu-Chwang be paid into the Russo-Chinese bank; that no portion of Manchuria be alienated to another power; that only Russians be employed in the Manchurian public service; that Russia shall control the sanitary regulations of Niu-Chwang; and that Russia shall have the right to attach telegraph wires to poles of all Chinese lines in Manchuria. The publications of these demands aroused considerable excitement, and although the Russian foreign office denied making them, the occupation of Manchuria still continues. The Russian demand on China for the payment of 1,200,000 taels as indemnity for repairing and protecting the Shan-hai-kwan-Niu-Chwang railway has been complied with. — Further demands with regard to Mongolia have been reported. The question of the payment of the **Chinese indemnity**, whether on a gold or silver basis has been a subject of diplomatic controversy among the powers. On account of the continuous fall in the rate of exchange, and the consequent inability to pay in gold, the Chinese government asked to be allowed to pay in silver. The government of the United States thereupon expressed willingness to accept payment in silver, and invited the concurrence of the other powers. The American proposition, however, has not met with favor, and no agreement has been reached. It was reported in April that China had yielded to the pressure from the powers, and had issued instructions for the payment of the indemnity in gold. The situation in **South China** has been marked by disorder and industrial depression. A rebellion in the province of Kwang-si, and local disturbances in Ho-Nan, were reported in February. — The politics of **Japan** have been marked by a prolonged struggle between the Ministry and the lower Chamber over the ministerial scheme for raising money to meet the expense of the elaborate naval programme recently entered upon. The Chamber has been almost unanimously opposed to the continuance of the land tax, which is a part of the government scheme, although there is little opposition to the increase

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of the navy. Marquis Ito, the leader of the Sei-yu-Kai, has contended for a reduction of the budget along various lines, and the application of the surplus to the increase of the navy, thus obviating the necessity of continuing the land tax. After various efforts to reach a compromise the Chamber was dissolved in December. The new elections were held in March, and resulted in the defeat of the government by a majority of one hundred in the Chamber. The new parliament met in May, but the ministry has not yet been displaced. — An incident in the politics of **Siam**, was the decision of the government to abandon the silver monetary standard in favor of the gold basis.

AFRICA. — In the **Transvaal and Orange River Colonies** the work of reconstruction and readjustment has proceeded steadily. In the Transvaal martial law has been withdrawn, and in Natal a general proclamation of amnesty for treason has been issued. The work of repatriating the Boers has made notable progress, the total number having reached 100,000 on March 19, leaving only a few camps, chiefly of indigent and disabled persons, to be returned. The problem of passing upon the claims of the burghers under the terms of the surrender (last RECORD, p. 741), has been confided to a commission, which is also charged with the distribution of the free grant of £3,000,000 to enable the burghers to restock their farms. The claims filed amount to £90,000,000. The financial difficulty has been partially settled by an agreement of the Rand mine owners to pay £30,000,000 as a war contribution, a loan for a similar sum to be issued by the imperial government. The most serious industrial problem has been the scarcity of labor for the mines. Various plans have been proposed for providing labor, but on account of the opposition of the colonists to Asiatic laborers, no progress has been made. Meantime, an experiment with white labor is being made with favorable results, and inducements are being offered to encourage Kaffir labor. An incident of note was Joseph Chamberlain's visit to the South African colonies during the winter. He was cordially received by the Boers, and his mission, which was chiefly one of conciliation and investigation, went far toward restoring good feeling between the government and the Boers. A Customs Convention, drafted by a conference held at Bloemfontein, of representatives from all the South African colonies, provides for preferential treatment of British goods and goods of such British colonies as may grant reciprocal privileges to South African products. — The politics of **Cape Colony** have been marked by the growing unpopularity of the premier, Sir J. Gordon Sprigg, who sustained his fourth defeat in the Assembly in November. The budgetary statement of the Cape government in April showed an increase of 30 per cent in the revenues as compared with last year. A matter of industrial interest has been the practical completion of the Uganda railway from Mombassa on the Indian Ocean to a point on Victoria Nyanza, — a distance of 580 miles.—In North Africa the chief event of general interest has been the revolt against

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the Sultan of **Morocco**, Abdul Aziz, chiefly on account of his pro-foreign tendencies. The leader of the rebellion is Omar Zarahuni, the pretender to the throne. — In the British protectorate of **Somaliland**, the depredations of the Mad Mullah upon the tribesmen under British protection have caused the British government considerable trouble. In a campaign against the Mullah the British suffered a defeat in April. — A treaty of delimitation between **Abyssinia** and Great Britain was concluded in October, by which Great Britain obtains a small strip of territory as a commercial station, and the right to construct a railroad through Abyssinia connecting the Soudan with the Uganda territory. — In Central Africa an incident of some note was the capture of **Sokoto** by a British force on March 15. This marks the fall of the Mohammedan Empire of the Great Fullah, and establishes the control of Great Britain over a territory estimated at 500,000 square miles.

LATIN AMERICA. — More than the usual number of revolutions have been in progress in this part of the world. In **Venezuela** the revolution against President Castro (last RECORD, p. 742) has continued without prospect of success to either side. Toward the end of the year matters took a serious turn through the interference of Great Britain, Germany and Italy, for the purpose of enforcing the settlement of claims against the government of Venezuela. The Venezuelan fleet was seized, the coast blockaded, and several forts bombarded by the allies. Upon the suggestion of the government of the United States the blockading powers agreed, under certain conditions, to arbitrate the dispute with Venezuela, and they proposed that President Roosevelt act as arbitrator. He declined to do so, and suggested that resort be had to the Hague International Tribunal. After prolonged negotiations, during which Germany, Great Britain and Italy insisted upon preferential treatment as against other powers which had claims against Venezuela, the matter was settled by the signing of protocols between Venezuela and the powers interested, after which the blockade was raised. According to the terms agreed upon, the claims of each country are to be passed upon by a mixed commission consisting of a representative of each party and an umpire, in case of disagreement, selected by the President of the United States. Thirty per cent of the customs receipts of La Guayra and Porto Cabello are to be set apart for this purpose. The order of preference as to the payment of claims is to be decided by the Hague tribunal. As a condition preliminary to the signing of the protocols, the blockading powers demanded and have received an immediate cash payment of $395,000, of which $340,000 goes to Germany, and $27,500 each to Great Britain and Ireland. In **Santo Domingo** a revolution against President Vasquez broke out in the spring. The rebels exhibited considerable activity, and in the latter part of April it was reported that they had succeeded in overthrowing the government. Toward the end of the year a revolt broke out in **Honduras**, in the course of which the rebels gained several victories over the government. — In

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Uruguay a nationalist rebellion against the new president broke out in March. Terms of peace were, however, soon agreed upon. In **Nicaragua** during the same month a rebellion against the newly elected president Zelaya, was reported. It collapsed after about one month. The revolutions in **Hayti** and **Colombia** (last RECORD, p. 742) came to an end in October and November respectively. The treaty of peace between the Colombian government and the rebels was brought about chiefly through the good offices of Admiral Casey of the United States Navy. A matter of international interest has been a prolonged dispute between Brazil and Bolivia concerning the **Acre territory**, which Bolivia had sold to an Anglo-American syndicate. A boundary dispute between Bolivia and Peru has been referred to the President of Argentina for arbitration. The Congress of **Mexico** opened April 1. The speech of President Diaz reviewed the progress of the country, the condition of the government, and gave considerable attention to the monetary question which is now uppermost in Mexico. The continuous depreciation of silver has led to the appointment of a monetary commission to study the question of currency readjustment; and the government has, in the meantime, taken steps toward the establishment of the gold standard. The governments of Salvador, Uruguay, Guatemala, and Korea have signified their adherence to the **Hague Convention.**

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